Mr. Nelson: I prefer that Mr. Blanchfield didn't — wasn't just shoved in on me like that.

The Court: All right. Mr. O'Connor, will you come [fol. 119] forward and aid Mr. Nelson in the selection of the jury? Mr. O'Connor is another lawyer in the courtrooms.

Mr. O'Connor: Your Honor, can I speak to you?

The Court: Yes.

Mr. O'Connor: I have a matter pending, a plea — I mean another case that may require me to go to trial; and an argument in front of Judge Soffel possibly this morning — so that my services can be utilized by this court here, I suppose those other matters over there probably will be delayed.

The Court: To serve your convenience on this, we will ask Judge Soffel—this is a plea, is it?

Mr. O'Connor: It is a plea.

The Court: We will recess in time to have you take care of the plea before noontime. If you will aid Mr. Nelson in the selection of the jurors we will not ask you [fol. 120] to aid him further. He asked for assistance in the selection of jurors due to his inexperience in the procedure on the matter. I would appreciate it if you would aid him to that extent.

Mr. O'Connor: Very well, Your Honor.

The Court: We will send word to Judge Soffel, or the other presiding judge, of your being detained here for this purpose.

Mr. O'Connor: If the court please, that is in the Special Grand Jury on the Fifth Floor; I was supposed to appear as counsel for two witnesses there. The matter came up Friday, and I was told to report back today in front of the Special Grand Jury. And the other two cases which I have listed, one is listed for a plea. I suppose it will be in Number Two Courtroom. And the other case——

The Court: Well, if you will assist him temporarily, at any rate, until we can find some one else that can take over in that respect, possibly we can excuse you shortly. [fol. 121-435] We have a call in for one or two other lawyers and as soon as they arrive we can excuse you.

If you will start the matter with Mr. Nelson we will send word to Judge Soffel that you are being detained.

Mr. O'Connor: Would the Court notify Judge Soffel and the lawyer who is conducting the Grand Jury

The Court: We will send word up to him.

Mr. O'Connor: I would appreciate it.

The Court: Notify Judge Soffel that Mr. O'Connor has been asked to temporarily aid in the selection of the jury and not to have his two witnesses whom he represents presented to the Grand Jury until he is available.

All right, Mr. O'Connor. This is Mr. Pearse O'Connor, Mr. Nelson, and he will undertake to aid you in the selection of a jury.

All right, proceed.

[fol. 436] IN THE COURT OF QUARTER SESSIONS OF ALLEGHENY COUNTY, PENNSYLVANIA, OCTOBER SESSIONS, 1950

No. 764

COMMONWEALTH OF PENNSYLVANIA

vs.

STEVE NELSON, ALIAS LOUIS EVANS, ALIAS JOSEPH FLEISCHINGER, alias "Hugo," alias Steve Mesarosh

(Sedition)

Pittsburgh, Pennsylvania, Wednesday, December 19, 1951.

CORAM: Hon. Harry M. Montgomery, J., and a Jury.

Transcript of Official Notes of Testimony—December 19, and 20, 1951

Counsel Present

For the Commonwealth: William F. Cercone, Esq., Loran L. Lewis, Esq., Assistant District Attorneys.

For the Defendant: Steve Nelson, in his own behalf.

Frank Shonsky, Official Reporter.

[fol. 437] (Wednesday, December 19, 1951, Court convenes pursuant to adjournment of yesterday.)

The Court: Are you ready to proceed?

Mr. Nelson: May we come close to the bench, Your Honor?

The Court: Yes, come forward.

(At side bar.)

Mr. Nelson: Your Honor, I am not sure that these questions that we had yesterday, that they were agreed upon by you.

The Court: You mean the last two questions?

Mr. Nelson: Yes.

The Court: You may read them into the record if you want; and I will indicate that I overruled your request.

Mr. Nelson: All right, Your Honor. I will turn that over to the man and let him read out——

[fol. 438] The Court: Nine and ten.

Mr. Nelson: At his leisure.

The Court: Just nine and ten you are referring to now?

Mr. Nelson: I would like to have the whole thing in the record as to what the questions actually were, the questions already repeated.

The Court: Just nine and ten. You indicate that questions nine and ten were requested to be asked of the jurors—questions nine and ten on this list. Copy them into the record and indicate that the Court refused to permit the questions to be asked.

Mr. Nelson: Of course, I guess the objection is already on record—if it isn't I would like to repeat it, or request it again—that these questions limited my possibility of inquiring into the bias of the jurors.

The Court: Well, the questions speak for themselves in that respect. That is a matter of argument.

[fol. 439] Mr. Nelson: The fact that my attorney had to draw them up in fifteen minutes—not my attorney but an attorney appointed by the Court—had to draw them up on fifteen-minutes notice. It didn't give me a chance to think them over properly—present them properly.

The Court: All right.

Mr. Nelson: Additionally, I was not in good physical shape because of the attack on me in the hospital; and my temperature has been a ~~hundred some~~ ever since I have been here these three days. But since the doctors are of the same mood as many prospective jurors and fear even to look into my physical condition, I was unable to get any redress from the Court because, apparently, the Court is of the opinion that I am making up this story, and I have been compelled to go ahead through the examination of jurors without being fully physically able to do the job the way it should be done.

The Court: All right. Is that all?

[fol. 440] Mr. Nelson: And here, Your Honor, I have presented this Writ of Prohibition to the Supreme Court, and I understand the formality is that you have to acknowledge receipt of it. I have to send that back to—I'm not sure that I made this up very well, but I will appreciate——

The Court: This is a copy of it and you want me to accept service of the copy of this Petition for Writ of Prohibition to the Supreme Court?

Mr. Nelson: Right.

The Court: I will do that.

Mr. Nelson: I am not sure whether that is made up right.

The Court: Well, I will fill it in the way it should be.

Mr. Nelson: That is the case, Your Honor.

The Court: All right.

[fol. 441] Mr. Nelson: Does that have to be sent out right away?

The Court: I don't think so; just any time today you can file it over there.

Mr. Lewis: I think Your Honor ought to have a copy of this.

The Court: This is merely a service, and I accept service of it. I will mark it on this copy; he is leaving it with me. All right, sir.

Motion for Continuance and Denial Thereof

Mr. Nelson: Then I want to make one more motion, Your Honor, that you grant me a continuance until next Tuesday, which is the first time Mr. Meldahl can come into the case. Otherwise I am going to be compelled to go to trial this morning without counsel.

The Court: Well, I have already ruled on further postponements by reason of lack of counsel; and I will refuse your motion on that. If it will avail you, I will be glad to call Mr. Glick again to aid you until such time as counsel [fol. 442] can appear for you. But that is a matter for you.

Mr. Nelson: Your Honor, Mr. Glick was not very satisfactory to me, principally because he had no chance to discuss with me; he didn't know anything about the case; he was shoved in; he couldn't do the adequate job that I need and am entitled to. And I believe it is putting him at an unfair advantage. He told me yesterday in the course of questioning the jury: "I wish I had more time to discuss with you what the questions should have been." And, therefore, he couldn't put the proper questions. Consequently, under the circumstances, to put him in the position of putting up a pretense that I have counsel—and I don't—I think is meaningless, Your Honor.

The Court: All right, it is a matter for you. I won't summon him unless you desire it.

Mr. Nelson: I will do what I can until we get whoever I can, at any time I can, Your Honor. I am trying to do that.

[fol. 443] The Court: Well, as you heard me indicate to the jury, we will proceed until Friday and then the case will be postponed until the day after New Years.

Mr. Nelson: What could we do in these two days, Your Honor, that couldn't be satisfactorily handled after that. I am not proposing to quit and get away, or do something like that; all I am asking is a minimum number of days for a man to be able to come in here and handle the job. You deny my rights by rushing me this way to trial.

The Court: We don't feel that we have denied you the right. Since it has been ruled on, I won't alter the ruling. We will proceed with or without counsel.

Mr. Cercone: Your Honor, the Commonwealth has a motion to amend the indictment, to change the date from "July 19" to "October 31, 1950". That is the date of the arrest of this defendant. It was the same procedure followed the last time, Your Honor.

[fol. 444] The Court: Any objection to the amendment?

Mr. Nelson: My objection is that the indictment as a whole ought to be struck.

The Court: Well then the amendment will be allowed. Exception noted for the Defendant.

Mr. Nelson: I am not sure on my rights on the particular motion that was made here, and the only——

The Court: I granted you an exception.

(Questions 9 and 10 on list copied into the record as follows:

"Q 9. Have you or any member of your family ever belonged to or contributed in any manner to any organization whose program is anti-Communist?

"Q 10. If it appeared from the evidence that this defendant opposed the entry by the United States in the war against Communist China, would that fact create a prejudice or bias against this defendant so as to prevent you from rendering a fair verdict?")

(End side bar.)

[fol. 445] The Court: You may proceed to open to the Jury, Mr. Cercone—outline your case.

Mr. Cercone: With the permission of the Court. Members of the Jury: You have been sworn to try the case of the Commonwealth of Pennsylvania against Steve Nelson, the defendant, who is charged with the crime of the felonious crime of Sedition. In the examination of the prospective jurors for the selection of this jury you have heard, in one way or another, in part, the definition for the crime of Sedition. Since we are at the beginning of this case, and in all probability will extend beyond the time required for the trial of an ordinary case, it would be well for me to define for you more completely the definition of the crime of Sedition.

As it applies under the laws of the State of Pennsylvania, Sedition under our laws is committed when a person, either individually or in combination with others, brings, publishes, writes, or by cartoon, utterance or conduct, intends [fol. 446] to make or causes to be made any outbreak or demonstration of violence against the State of Pennsylvania or of the United States; or which encourages any person to do such acts with the view of overthrowing the Government of the State of Pennsylvania or of the United States by force and violence; or which encourages any person to commit an overt act with the view of holding the Government of the State of Pennsylvania or of the United States in hatred and contempt; or which incites any person to do harm to the person of a public official, or damage to the property of the Government or to the property of a public official. And the very word "Sedition" itself includes any writing, publication, printing or other literature which advocates or teaches the necessity of crime, violence, or any form of terrorism in order to bring about political reform or change in government; or the sale or gift or distribution of any literature, publication, printing or writing which advocates Sedition; namely, the overthrow of the Government of the State of Pennsylvania or of the [fol. 447] United States by force and violence, contrary to the laws of this Commonwealth; or organizing or helping to organize, or becoming a member of any organization, group, party or association which advocates the teaching of Sedition; which is, namely, the overthrow of

the Government of the State of Pennsylvania or of the United States by force and violence.

Now the very nature of the crime, of course, you can readily deduce, makes for an important and serious case important for this defendant and important for the Commonwealth of Pennsylvania. The purpose of the enforcement of the law is to protect the peace of the community. And the sole purpose of individual prosecution, the prosecution of an individual, is not alone to punish that individual for any crime that he has committed against the State but more to act as a deterrent for other persons who might contemplate a crime against the State. And, hence, in this case I urge you to consider the strict necessity in enforcing the law, the maintenance of the peace and dignity [fol. 448] and order and protection and safety of human lives and property.

Now as co-prosecutor in this case, with my associate Loran Lewis, we represent all the people of the Commonwealth; and as such we have no personal interest in the case other than to see that justice is done in the case. We will attempt to present to you the evidence in the case as orderly as possible and as speedily as possible, but let me say that in fairness to all the witnesses who must testify from the witness stand, and in fairness to you as the Ju which must listen carefully to the evidence, it will be possible to present the evidence precipitantly or hurriedly. There is so much evidence here that it will have to be presented in an orderly and as speedy a manner as possible but not too hurriedly so that you will fail to grasp the significance of all the evidence presented.

Now the evidence will be presented to you from the lips [fol. 449] of witnesses and from the pages of books, the contents of documents and other exhibits. And altogether, ladies and gentlemen, when it is all in, the Commonwealth will have proved to you beyond a reasonable doubt that Steve Nelson is guilty of the felonious crime of Sedition. That is, he is guilty of the crime of Sedition, and, in combination with the widespread national movement, helped plan the overthrow of the Government of the State of Pennsylvania and of the United States by force and violence. When all the evidence is in, members of the jury,

from the witness stand, the Commonwealth will have proved to you that Steve Nelson, this defendant, is the leader of the Fifth-Column movement in the United States, under the control of the foreign organization and the government and the Communist Party of the Soviet Union of Russia, to bring about the overthrow of this Government of the State of Pennsylvania and of the United States by force and violence.

Mr. Nelson: Your Honor, I move that these prejudicial [fol. 450] remarks be struck; they are nothing but propaganda based on newspaper articles; they are lies. And I move that they be struck. And I ask for a withdrawal of a juror, and that the Judge declare a mistrial in this case.

The Court: I shall act on your motion. I will not permit or grant the motion to withdraw a juror. I would ask the District Attorney, however, to outline the case rather than argue the case at this time.

Mr. Cercone: I am just saying what the witnesses are going to prove, Your Honor.

Mr. Nelson: Will you ask him to cease and desist from using inflam-atory language, inflam-atory material and lies?

Mr. Cercone: Your Honor, I am going to object——

Mr. Nelson: Not open the case in this manner, prejudice this jury from the very start.

The Court: I am asking him to do that, Mr. Nelson. I will ask him again to refrain from arguing the case at this time. Outline your case.

[fol. 451] Mr. Cercone: All right. Now, Your Honor, I am going to object to——

The Court: Outline your case, Mr. Cercone——

Mr. Cercone: I want to put this on the record.

The Court: In such a fashion that the jury will fully comprehend what you expect to prove by the evidence. It is for the jury to say whether or not you have established a case beyond a reasonable doubt. You may state to them your expectancy concerning it, but to say that you will do it, or as a matter of fact, that is for them to say whether they are so convinced.

Mr. Cercone: I agree with the Court, but I want to put

of the record that this defendant's argument at the time that the Commonwealth is trying to open is just another phase of their tricks in the courtroom.

The Court: I will ask Mr. Nelson to refrain from interrupting your opening, to make notes of anything that he considers prejudicial to his side of it; and I will rule on it at [fol. 452] the conclusion of your remarks. If you will make a note, Mr. Nelson——

Mr. Nelson: I have one more request, Your Honor. Will the Court grant me the right to answer him as soon as he gets through?

The Court: No. We will do this in an orderly way.

Mr. Nelson: I object to it.

Mr. Cercone: This is a repetition of what always occurs.

Mr. Nelson: I want to answer him as soon as he is through, without writing down one note, and I want the jury to know what my defense is going to be.

The Court: That is not our practice here. At the conclusion of the Commonwealth's case you may take as much time as he takes, or more, to outline to the jury and make a denial of anything that the evidence produces or indicates; and also any defense that you have to any of the evidence [fol. 453] that is submitted. Now we are going to do this in an orderly way. We might as well have a complete understanding on it from the beginning, both the Commonwealth and the defendant.

Mr. Nelson: I object to Your Honor's rulings.

The Court: Very well, every objection that you make, you will have an exception noted, so your record is complete on that, and if there is anything that indicates to the Court where your rights are being prejudiced I will direct your attention to it inasmuch as you do not have counsel present with you.

Mr. Cercone: (Continuing to the Jury:) Members of the jury: The period of this indictment dates from October 31st, 1950 and for two years prior thereto; which the Commonwealth will prove to you is the period in which this man stands charged for this crime. We will place a witness on the stand to show you that before that period, prior to the period of the indictment, show you the conduct of Steve Nelson—not as proof that he was guilty of the crime during

[fol. 454] the period of the indictment, but to show you that he had the guilty knowledge and the intent with which to commit the crime during the period of the indictment. We will put a witness on the stand to tell you about his membership in the Communist Party——

Mr. Nelson: Your Honor——

Mr. Cercone (Continuing): —not because——

Mr. Nelson: I object to this. You remember, yourself, yesterday you told the jurors that the Communist Party is not on trial—I knew different, I knew they were going to smuggle it in one way or another. And the Communist Party is on trial here, Your Honor.

The Court: Mr. Nelson, if you will——

Mr. Nelson: He is backing down on his own promise to the jurors.

Mr. Cercone: No, we didn't, Your Honor.

Mr. Nelson: I would like to ask that question.

[fol. 455] The Court: Mr. Nelson, I told you that you may make any objection you want to make at the conclusion of the remarks. And if you don't obey the order of this Court I will have to take other action concerning it. Now be seated.

Mr. Nelson: Your Honor, I will obey the order of this Court.

The Court: Then be seated, and make your objections at the conclusion of his remarks.

Mr. Nelson: Not knowing how to handle this question, Your Honor——

The Court: I am telling you how to handle it. If you will be seated I will rule on anything you want to object to at the conclusion of his remarks.

Mr. Nelson: All right, I move that these remarks be struck, regarding the Communist Party, and it not be brought in any more in this trial.

The Court: Are you refusing to obey my order in the matter? I told you to be seated and to make any objections [fol. 456] to his remarks at the conclusion of them, and I will rule on every objection at that time, that you make.

Mr. Nelson: Your Honor, do I understand——

The Court: Do not interrupt him any more. And I will

not permit him to interrupt your opening remarks or your closing argument.

Mr. Nelson: Do I understand, Your Honor, that I cannot make a motion at this time?

The Court: You may not make a motion at this time. You may make your motion at the conclusion of his remarks, if you think there is anything to justify the withdrawal of a juror and for a continuance in this matter. I will rule on it at that time. This must be conducted in an orderly manner and have no interruption in the action by either side—either your side or his side.

Mr. Nelson: Well, if the Court will please, I will cooperate to the best of my ability.

The Court: That is all I ask, Mr. Nelson.

[fol. 457] Mr. Nelson: However, I should think that these prejudicial remarks and things are out of order.

The Court: Make your motion concerning that at the conclusion of his remarks.

Mr. Nelson: May the Court order him not to make any inflamatory remarks?

Mr. Cercone: Your Honor, we are making the proper opening in this case.

The Court: I will not rule on it at this time. I told him to not argue his case, to outline his case. If there is anything in the outline of the case that is prejudicial, it should be stricken; or if it should justify the withdrawal of a juror, I will rule on it at the termination of his remarks.

Mr. Nelson: Thank you.

The Court: If you will cooperate in that respect, we will get along here very nicely.

Mr. Nelson: I will do the best I can.

The Court: Make notes as we go along of what you [fol. 458] consider prejudicial or inflam-atory or otherwise contrary to what is proper, and I will rule on them at the completion of the remarks now engaged in by the District Attorney. Proceed.

Mr. Cercone (Continuing to the Jury): We will show you, members of the jury, the membership of this defendant in the Communist Party—not because membership is a crime (which is not in the State of Pennsylvania) but to show you that the Communist organization itself is a

seditious organization for which this defendant operated, through and for the purpose of overthrowing the Government of the State of Pennsylvania and of the United States. And so that you will perhaps get a better background of the history of the Communist Party; we will put a witness on the stand who will tell you that ever since 1919 the Communist Party was in existence in the United States, controlled by the government and the Communist Party of the Soviet Union of Russia, and the Communists—the foreign organization which controls the communist [fol. 459] movement internationally, known as the "Communist International"—and ever since its existence in the United States it has operated here with the home base in Russia. We will put a witness on the stand who will show you that in 1928 the Communist Party adopted a program for the overthrow of this Government, not by the ballot vote but by a theory of force and violence and bloodshed.

Mr. Nelson: Your Honor, may I ask a question? I am not sure about your ruling and I don't want to argue with the Court, but is it your ruling that I can't object to these kind of slanderous remarks?

The Court: At the conclusion of them you may direct my attention to them. At the conclusion of them if it will justify the withdrawal of a juror, why, that all will be done. If it don't justify it at that time, we will not withdraw a juror.

Mr. Nelson: Can't Your Honor order him to handle the [fol. 460] case the way you indicated?

The Court: I told him to outline his case, not argue it. I can say to him at this time that these matters which you are referring to are not proper evidence.

Mr. Nelson: Aren't they going to have an effect on human beings now when they are being stated without my being able to contradict him?

The Court: If they are that effective, then a juror will be withdrawn.

Mr. Cercone: Your Honor, I want to place on the record at this time that this is again just some more of the Communist Party tactics.

The Court: The reporter is taking everything that is

said here, so you needn't emphasize it by asking for any further record.

Mr. Cercone: We will put a witness on the stand to show you that in 1939 a book was prepared called "The History of the Communist Party of The Soviet Union" [fol. 461] which was distributed among the members and workers of the Communist Party of the United States, and of other countries; which was prepared in part by Joseph Stalin, the dictator of Russia; which advocated the overthrow of all democratic forms of government. And that book was to be used by these members and workers here, not as a book of history but as a guide to action, members of the jury, in carrying out this plan of Sedition.

We will show you that in 1940 this communist organization showed the character of sedition when the United States Congress passed a law which required all organizations under the control of foreign organizations to register with the Attorney General—and to just get away from that Act the Communist Party voted to disaffiliate itself from the "Communist International" so that it would do away with the requirement of registering with the Attorney General of the United States. And we will show you, by a witness, that there was no disaffiliation at all; they voted to do so and still took the policies and directions from [fol. 462] the foreign government and the Communist Party of the Soviet Union of Russia. And then, members of the jury, we will call a witness on the stand—namely one Matt Cvetic—who is assigned by the Federal Bureau of Investigation of the United States Government to investigate the activities of this seditious organization, and he will tell you about Steve Nelson—he will tell you how, according to the plans of the Communist Party, Steve Nelson infiltrated the City of Pittsburgh with the Communist Party planned program of propaganda and sabotage.

And, members of the jury, we will put on the stand, one Judge Michael A. Musmanno, who, as a private citizen initiated this prosecution. Judge Musmanno was a lifelong resident of the County of Allegheny, and he will take the stand and tell you how on July 18th and 19th he walked into the Communist Headquarters here across the

street from the Courthouse and secured literature which will prove to you were seditious in nature. Judge Michael A. Musmanno will tell you why he, a private citizen, initi- [fol. 463] ated this prosecution. We will introduce in evidence a challenging letter written by the defendant to Judge Michael A. Musmanno, admitting that he (Steve Nelson) was the chairman of the Communist Party of Western Pennsylvania. . . .

And we will put a witness on the stand to show you some of the things that this seditious organization did: such as planning to infiltrate the Army and Navy and National Guards and R.O.T.C. and Civilian Military Training Camps, by sending selected communist members into the Armed Forces with instructions to secure as much military information as possible and to obtain promotions in the services so that they could work better in the higher echelons and do their work according to the precepts of the party of this seditious organization—and how they distributed publications and literature to the Armed Forces. They published what was known as the—a publication known as "Rapid Fire," which is one of the first com- [fol. 464] munist publications to be distributed among the Armed Forces. They distributed a pamphlet known as "The Red Guardman" among the National Guards of the State of Pennsylvania. They distributed a pamphlet called the "Red Cadet" among the R.O.T.C. members at Washington, D. C.——

Mr. Nelson: Your Honor, may I ask another question? Will Mr. Cercone refer to the dates of these pamphlets to see if they come under the period of the indictment or not? As far as I can recall, some of those pamphlets that he is referring to were printed thirty years ago. Am I going to be tried for pamphlets that were put out by someone before I was ever around, or anywhere like that.

The Court: If they are not within this statute, of course, your actions concerning them were not within the statute.

Mr. Nelson: Why does he bring it up?

The Court: That is a matter of proof, Mr. Nelson. And [fol. 465] if it is not within the period covered here by the indictment, of course, the Court will rule on it in your favor, that it is not admissible evidence. But that will

have to be done when the matter is submitted in evidence, after the closing of the opening remarks.

Mr. Nelson: I object to these things being brought in now, Your Honor.

The Court: You make your objections, as I told you, at the conclusion of the remarks.

Mr. Nelson: Okay.

Mr. Cercone: Then, members of the jury, we will put witnesses on the stand to tell you all about Steve Nelson, how he worked in the Communist Party since 1928, was a member of the National Committee of the Communist Party of America, at least twice on the National Committee——

Mr. Nelson: Your Honor, there again he goes to the question of the Communist Party.

The Court: We understand it. We will rule on it at [fol. 466] the termination of his remarks, Mr. Nelson. Now please cooperate.

Mr. Cercone: The seditious organization of which he was a member, of the National Committee at least twice, which sets up the policies and directives of the national organization in this country. We will show you that in 1931 he worked in the Wilkes-Barre and Scranton area organizing his work for these seditious organizations. We will show you that in 1932 he was sent as a delegate of the Communist Party of Philadelphia to Moscow, to the Lenin Institute there, to learn the theory and practices of the Communist Party work in America. And he just didn't go there as a student, members of the jury, but he learned things on what to do when he came here to America. He learned how to learn all about the rifles and machine guns and weapons of the United States Government; he learned how to take apart the machine guns and rifles and weapons of the United States Government——

[fol. 467] Mr. Nelson: Your Honor, is the Court going to permit these prejudicial remarks to be made at this time? I must ask: I don't know what to do, Your Honor.

The Court: Sit there and make a note of anything you consider prejudicial, and object to it at the termination of his remarks.

Mr. Nelson: Can't the Court order him not to do it? He

is a lawyer, he should know how to handle this question if he is a lawyer.

Mr. Cercone: It is perfectly in order, Your Honor.

Mr. Nelson: He has a political stake in this trial, Your Honor; that's why he is doing it this way. He wants to be another judge here, that's what he wants to be.

The Court: Now, Mr. Nelson——

Mr. Nelson: He knows what happened to Loran Lewis, now he wants to be one.

[fol. 468] Mr. Cercone: I object to his remarks, Your Honor.

The Court: We will sustain the objection. Proceed.

Mr. Cercone: We will show you that after this class was over, which lasted almost a year, he stayed over in Russia to learn how to be a spy. We will put a witness on the stand to tell you what——

Mr. Nelson: Am I charged with being a spy, Your Honor?

The Court: Be seated, Mr. Nelson.

Mr. Nelson: I think I should know that.

The Court: If you think this is prejudicial we will rule on it after——

Mr. Nelson: I think you owe it to me.

The Court: We will give you ample opportunity to argue at the termination of the remarks. I told you that before; now please cooperate.

[fol. 469] Mr. Nelson: The Court ought to tell him to talk the way a man ought to talk.

Mr. Cercone: These are the things we are going to prove by the evidence in the case, Your Honor, and I object to the remarks by this defendant, who is trying to set aside the processes of the Court.

Mr. Nelson: Why didn't you say the Government arrested me for that? Why does he bring it in here now?

The Court: There is a certain amount of background that is necessary, Mr. Nelson.

Now limit yourself to the background on the facts——

Mr. Cercone: That is what I am doing, Your Honor.

The Court: Alleged in the indictment as closely as possible, Mr. Cercone.

Mr. Cercone: We will show you, members of the jury, his activities in California where, as a member of the District [fol. 470] Board, he set up classes there, underground

classes in the work of sedition. We will call a man from California who was there at the time he set up a school at Alameda, an underground school, and the kind of school that we will prove he setup here in the City of Pittsburgh, members of the jury, during this period of the indictment. We will show you that by this witness who will come in here from California that the only reason that Steve Nelson succeeded him at the time was that he was the only person that was trusted with the spy work of the Soviet Union.

Mr. Nelson: Your Honor, I cannot take this any longer—I don't care, Your Honor, what the Court will do, but I must ask you to protect me in this case—you are not doing it. You are permitting this man to get away with murder. This is nothing but a butcher job being done by this nephew of Michael Musmanno.

Mr. Cercone: That is purely propaganda.

The Court: Please be seated, both of you. Limit yourself, [fol. 471] Mr. Cercone, to the matter at issue here, the activities of this man during the period of the indictment. Refer only briefly to the background, which I understand is permissible—and I will so rule on it as permissible in a general way.

Mr. Cercone: That is right, Your Honor.

The Court: Because intention is involved here, background to establish that intention probably to a certain extent is admissible in evidence. But I would ask you to rely on the evidence rather than to emphasize it to the jury at this time point-by-point. The emphasis here should be on what his activities were during the period of the indictment. Refer to it briefly without the details attached to it, and rely on your evidence in order to show that at the proper time.

Mr. Cercone: We will show then, members of the jury, by volumes of evidence, books and pamphlets, this plan of sedition on the part of this defendant. We ask you to listen to all the evidence carefully, to all of the witnesses, [fol. 472] and to listen to the evidence as spoken by the pages of the books and the contents of the documents. We will say to you now that after having heard all the evidence we ask you to come back with a verdict which is just under all the circumstances

The Court: I didn't mean to preclude you from outlining the matter completely——

Mr. Cercone: That's all right.

The Court: Under the present indictment, Mr. Cercone. You may elaborate on that, your expectation of proof. I was intending to limit you on the particularity with which you were going into the background.

Mr. Cercone: Well, I thought it was not necessary, Your Honor, because we are going to prove it.

The Court: Well, just so you don't misunderstand my ruling. You may, if you wish, outline further the matter under the indictment within the period of the statute of limitations.

[fol. 473] Mr. Cercone: I think that I have done that.

The Court: Now, Mr. Nelson——

Mr. Nelson: I move to strike the remarks by Mr. Cercone and call for the withdrawal of the jury and declare a mistrial.

The Court: Your motion is refused.

I will say this to the jury, however, that the matters for which you are being tried is the matter which is included in the indictment. A certain amount of the present matter under the indictment determines your intentions concerning your actions, and for the purpose of showing your intentions that limited amount of your background is permissible to be shown in evidence. But I will tell the jury that you are not being tried with anything that you have done beyond the period of the statute of limitations; you are being tried for what has been done within the period preceding this indictment which is within the statute.

Mr. Nelson: Then, Your Honor, let the record show that [fol. 474] the prosecutor did not cite one thing that I have done since I came to Pittsburgh—not one thing. He is relying solely on the so-called background material, which gives him a chance to slander me and smear me, which is going into the Press.

Mr. Cercone: I object to this, Your Honor.

Mr. Nelson: Which is going to go into the Press and create the impression, as Your Honor has seen already when picking the jury how some people have made up their minds by reading this gullible Press that is dishing out

this stuff—and they have me convicted before the trial opens.

The Court: Not with this jury. These ladies and gentlemen have stated that they have no opinion concerning you, and they have no prejudice against you. And I am telling you now that background only indicates what your intentions were and what may be established you did during the period that is covered by this indictment.

[fol. 475] Mr. Nelson: Then, Your Honor, when can I get a copy of the transcript? Because I am not able to keep in mind all the points that he referred to—I want to make specific motions on every point.

The Court: Well, you want to be specific on everything, including the background that he emphasized.

Mr. Nelson: I can only relate to the fact now that he mentioned the Communist Party on several occasions. And I make a motion that his points be struck.

The Court: And that you were a spy.

Mr. Nelson: That I was a spy—that that be struck. And that references to the so-called underground school be struck—because there was no such a thing. That it be noted for the record that one of the witnesses he is going to bring in here (Michael Musmanno) never saw me—never saw me—therefore, he could not see me commit any crime.

[fol. 476] The Court: The jury understands that he was only telling them what he expects to prove—what you say is not evidence.

Mr. Nelson: He is not a competent witness and, therefore, could not testify against me. And the reference to the so-called R.O.T.C. and work in the Armed Forces. Why wasn't something done about it, Mr. Cercone, if that was so?

The Court: Just a moment, address your remarks to the Court, Mr. Nelson, or we will——

Mr. Nelson: If there was any crime committed, why wasn't something done about it? He is going back to 1928.

The Court: Make your motions here, based on what you think inflammatory or prejudicial in the remarks he made.

Mr. Nelson: I move to strike these remarks, as I indicated, and to give me a chance to look at the record and point those up that are specifically out of order. And I

[fol. 477] hope the Court will grant me the right to have them struck.

The Court: Do you want them struck, or do you consider them such that you want a juror withdrawn?

Mr. Nelson: That is correct—both.

The Court: Well, I have told the jury that on the matter of background, you are not being tried on the basis of that. I think the jury will listen to the instructions of the Court now and as we go through this trial, as well as in the final charge. So I am not going to withdraw a juror and continue the case, but I will tell the jury that as we go along in this case, if there are things which have been referred to in the opening remarks of counsel which are not properly proved, or not the evidence to sustain them, is not admissible in evidence, that they are to be ignored. We will rule on those as we go along, and you may at any time enter an objection to any offer of evidence, [fol. 478] Mr. Nelson, that the District Attorney attempts to submit. We will rule on each at the proper time.

Proceed, Mr. Cercone.

Commonwealth's Case

JOSEPH BECKER, called as a witness on behalf of the Commonwealth, being first duly sworn, testified as follows:

Direct examination.

By Mr. Lewis:

Q. What is your name?

A. Joseph Becker.

Q. And where do you live, Mr. Becker?

A. 1645 Reamer Street, Pittsburgh, Pennsylvania.

Q. And what is your occupation?

A. Detective, City of Pittsburgh.

Q. And how long have you been a detective of the City of Pittsburgh?

A. Over sixteen years.

Q. Do you have any special assignment in the Detective Bureau?

A. Assigned to the Hotel Squad.

[fol. 479] Mr. Nelson: The which?

The Witness: Hotel Squad.

The Court: Hotel Squad.

By Mr. Lewis:

Q. Do you know where the Bakewell Building is located?

A. I do.

Q. Where is the Bakewell Building located?

A. Across the street from the City-County Building, on Grant Street, Pittsburgh.

Q. Have you ever been in the Bakewell Building?

A. I have.

Q. When was the first time that you were in the Bakewell Building?

A. The first time I was in the Bakewell Building was on August the 18th, 1950.

Q. And what occasion did you have to go there?

A. I accompanied Judge Michael A. Musmanno over to the Communist Headquarters on the Fourth Floor of the Bakewell Building.

Q. And why did you go there?

A. He went there ~~to look~~ at some literature and see if he could contact Mr. Nelson.

Q. What date did you say that was?

A. On the 18th of August.

[fol. 480] Q. You sure it was August?

A. Yes.

Q. Wasn't it July?

A. Could have been July—could have been July.

Q. That was in the year 1950?

A. That is right.

Q. How long did you remain there when you went there?

A. Oh, approximately five minutes.

Q. And did you go in the headquarters?

A. No, I stood outside the door while Judge Musmanno went in.

Q. How long was he in there?

A. Approximately five minutes.

Q. Five minutes?

A. That is right.

Q. Now did you ever visit the headquarters any time after that?

A. The next day—the 19th.

Q. And was anybody with you at that time?

A. Judge Musmanno.

By the Court:

Q. The 19th of what; July?

A. July.

Q. July?

A. Yes.

[fol. 481] By Mr. Lewis:

Q. Was anybody else with you besides Judge Musmanno?

A. My partner, George Marshall, City Detective.

Q. And did you go into the offices at that time?

A. I stayed out in the hall while Judge Musmanno and Marshall went in the office and purchased books.

Q. And how do you know that books were purchased?

A. Well, they come out and we carried the books over to Judge Musmanno's Chambers—the books that he had purchased.

Q. Who is Mr. Marshall?

A. A City Detective, my partner.

Q. Now were you in the headquarters any time after that?

A. The next time we were in was to raid the place, on August the 31st, 1950.

Q. You say, "raid the place"; did you have any authority to raid the place?

A. We had a search warrant.

Q. And where did you get that search warrant?

A. It was signed by Marshall Thompson, one of the Judges of this Court.

By the Court:

Q. One of the Judges of this Court?

A. That is right.

[fol. 482] By Mr. Lewis:

Q. He is one of the Judges of

A. Criminal Court.

Q. Of the Criminal Court?

A. Yes.

(Commonwealth Exhibit No. 1, marked for identification.)

By Mr. Lewis:

Q. Mr. Becker, I show you Commonwealth Exhibit No. 1, and ask you what that is, if you know?

A. This is a search warrant I served on Bernard Salis of 115 South Twenty-fourth Street, South Side Pittsburgh, who was in the office of the Communist Headquarters on the Fourth Floor of the Bakewell Building.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 1.

The Court: Have you shown it to the defendant?

(Defendant examines Commonwealth Exhibit No. 1.)

The Court: Do you have any objection to it, Mr. Nelson?

[fol. 483] Mr. Nelson: I certainly do object, Your Honor. It is a raid on a perfectly legal party.

The Court: I don't mean that—do you have any objection to the offer of this as a search warrant?

Mr. Nelson: I object to anything that is going in—that the prosecution is bringing in here to frame me.

The Court: Objection overruled. There will be an exception noted on the record to all of the Court's rulings; it is not necessary to enter an exception, for you will be given the benefit of all exceptions to adverse rulings. The offer will be received.

Exception noted.

By Mr. Lewis:

Q. Mr. Marshall, did you tell us who—I mean Mr. Becker accompanied you at that time?

A. Detective Marshall and myself.

Q. And who was at the headquarters when you arrived there?

A. Bernard Salis.

[fol. 484] Q. And did anybody come into the headquarters while you were in there?

A. No.

Q. And how long did you remain there at that time?

A. After we got into the office I instructed my partner to go out and call Judge Musmanno and tell him that we had seized the Communist Headquarters——

The Court: We want no conversations that went on there in the absence of the defendant.

By Mr. Lewis:

Q. Did you see Judge Musmanno on that date?

A. I did.

Q. Where did you see him?

A. He came over to the Communist Headquarters.

Q. What time did he arrive there?

A. About after noon, as he had just come back from Harrisburg and we were just able to contact him and ask him to come over—just come in from Harrisburg probably an hour or half an hour before.

Q. And were you still there when he arrived?

A. I was.

Q. How long had you been there at that time?

A. I was in the office about a half hour to an hour until [fol. 485] Judge Musmanno come over—from the time I went in until Judge Musmanno got there.

Q. Was there anybody with Judge Musmanno when he came in?

A. He walked in with Detective Marshall.

Q. Now after Judge Musmanno came there, how long did you remain?

A. Approximately two or two and a half hours.

Q. What did you do there during that time?

A. Looked over communist literature and pamphlets and maps on the wall, and the general outlook of the office and the things that were in the office.

Q. Were there any books or pamphlets taken out at that time?

A. There were.

Q. Can you give us an idea how many?

A. There were [illegible] when we would come across something that we thought was evidence we would place it in a pile, then put a rope around two bundles, and removed two bundles at that time when we left.

By the Court:

Q. You took two bundles of what?
A. Literature.
Q. Literature?
A. Which we thought was evidence at that time.

[fol. 486] By Mr. Lewis:

Q. Now did you visit the headquarters any time after that?

A. The next time was on September the 5th when the padlock order was put on by the courts.

Q. How long were you there at that time?

A. Well, we just went over and accompanied Sheriff Sipe, who put the padlock on the Communist Headquarters in the Bakewell Building.

By the Court:

Q. You didn't execute that padlock order; you just accompanied the deputy sheriff?

A. That is right.

Mr. Lewis: Cross examine.

The Court: Do you have any questions, Mr. Nelson?

Cross-examination.

By Mr. Nelson:

Q. Mr. Becker, the time you say you went over to the Communist Headquarters——

Mr. Nelson: I wonder if the Court won't mind if I lean on here—my leg is still sore.

[fol. 487] The Court: Yes, we realize that.

Mr. Nelson: I don't do it out of disrespect for the Court.

The Court: It is all right.

By Mr. Nelson:

Q. At the time you went over to the Communist Headquarters did you find me in the place?

A. No. But we were told by Bernie——

Q. Answer the question—no, no, just answer the question.

By the Court:

Q. What is your answer to the question?

A. No.

By Mr. Nelson:

Q. Did you ever see me in the headquarters of the Communist Party?

A. No.

Q. Did you ever meet me before that?

A. Never knew you before that—only reading about you.

Q. "Only reading about you?"

A. Yes.

Q. Consequently, you went over to pick up some literature for somebody else, but you had no connection with [fol. 488] me whatever, did you, at that time

A. No.

Mr. Nelson: Your Honor, in that case I move that the man's testimony be struck as having no bearing at all on me; and what he has said so far was hearsay testimony. I believe it is entirely improper and has no bearing on me.

The Court: It is not hearsay. You may develop that it has or has not any bearing. I can't say at this time. We will overrule your motion to strike his testimony.

Exception noted.

Any further cross examination?

Mr. Nelson: May we have a recess just for a few minutes for me to organize some questions on this? I didn't——

The Court: We can't grant a recess——

Mr. Nelson: I have trouble with my eye glasses.

The Court: I can't grant a recess after each witness. [fol. 489] but we are in order for a recess within about ten minutes; so, if you would request a recess now, why, I will grant it now.

Mr. Nelson: Thank you, Your Honor.

The Court: Give the jury a ten-minute recess at this time.

Short recess.

(After recess.)

The Court: All right, Mr. Becker, take the stand, please. Can you proceed without Mr. Lewis?

Mr. Cercone: All right.

The Court: All right, cross-examine further.

By Mr. Nelson:

Q. Mr. Becker, I believe you testified that you picked up some books when you were there, or cartons, and you took away these books for Judge Musmanno; is that right?

A. For Judge Musmanno to look at, further go through them.

Q. That's all right. You referred to these books as seditious?

[fol. 490] A. That is right.

Q. Did you have a chance to read all those books in the time you had been there?

A. No; I didn't have a chance to read them all.

Q. So how do you know they were seditious?

A. Well, different paragraphs and phrases in them.

Q. You had a chance to read two cartons of books inside of an hour?

A. It would take two years to read the three rooms of literature that were there.

Q. But do you, on the basis of that scant information or, rather, observation, you feel that you are qualified to state that those books were subversive?

A. Right.

The Court: He used the word "communistic".

The Witness: Communistic—subversive.

Mr. Nelson: He said "subversive", I think, Your Honor.

The Court: I may be mistaken.

The Witness: I said, "Communist literature."

By Mr. Nelson:

Q. I believe you made reference to "subversive litera-[fol. 491] ture", and it should be struck because it is obviously impossible for you to have picked them up, particularly since you said you were standing outside the door and didn't see what happened.

A. No, I executed the search warrant; I was in charge of seizing those books.

Mr. Nelson: But I believe the testimony will show, Your Honor, that Mr. Becker stated that he was waiting outside while Mr. Marshall——

The Court: That was the first two visits; the third visit is when he executed the search warrant and he said he went inside—and I noted it here.

By the Court:

Q. Judge Musmanno came in after you had been there a half hour or an hour?

A. That is right.

Q. On the third visit?

A. That is right.

Mr. Nelson: In that case, I don't see how this man is competent to pass judgment on the contents of the books. [fol. 492] The Court: We will direct the jury to disregard the opinion expressed by the witness as to what class of literature it was.

Mr. Nelson: Thank you.

The Court: That is part of the issue here for them to determine.

Mr. Nelson: Thank you.

By Mr. Nelson:

Q. Then I just have one more question; I believe you testified that you executed the padlock order?

A. I did not issue the padlock order; I did not execute it; I accompanied Sipe, who is the Sheriff of Allegheny County—he executed it.

Q. Okay, I stand corrected on that; I believe you did say that, that is right. Was that the same padlock you refer to that the Supreme Court threw out as illegal?

Mr. Cercone: This is objected to, Your Honor.

The Court: Well, it is not proper cross examination. Objection sustained.

Exception noted.

[fol. 493] Mr. Nelson: Well, I think, Your Honor, I am entitled to know—the jury ought to know. I think it is a perfectly legitimate thing, Your Honor—the Supreme Court overruled it.

The Court: I don't know anything about that. You might ask him if he knows anything about it, rather than to testify to it yourself. You can testify to it later yourself, but now ask the witness whether he knows anything about it being taken off when he was present, or whether he was present then. He does not have to indicate anything more than that he was present when it was put on.

Mr. Nelson: In that case I am not able to pursue this point.

The Court: That is the rule.

Mr. Nelson: I don't know how to handle this—I object to your ruling.

The Court: You may ask him whether he was present when it was removed and if he knows how it was removed. I will not limit you on that.

[fol. 494] By Mr. Nelson:

Q. Well, are you acquainted with that, Mr. Besker? Do you know when the padlock was removed?

A. I was there when the padlock was removed. I was also there when the padlock order that was—the padlock was removed and a seizure warrant was issued at the same time, and the sheriff seized the whole office and moved the whole office out.

Q. Then just one more question, Mr. Becker: As far as I am concerned, the only time you ever saw me is when you—as far as the first time you saw me is when you came to my house at midnight on August the 20th—

A. August 30th.

Q. August the 30th at midnight when my wife and I were returning home—that is the first time you met me, when you stuck the what-you-call-it, warrant in front of

me out in the dark and told me that I am under arrest; is that right?

A. Well, it was under a streetlight. I told you we had a warrant for your arrest—and we locked you up. That's the first time I saw you.

Q. At that time I asked you, "What am I being held for?" And you said, "Well, you'll find out." Is that right?

A. I did not. You had the warrant; you read it and your wife read it.

Q. And when I—when you read the word "sedition" I [fol. 495] asked you, "What does that mean? What crime have I committed?" What did you say to that?

A. I don't remember.

Mr. Nelson: That's all, Your Honor.

The Court: All right, Mr. Becker.

The Court: Gentlemen, members of the jury: I have this suggestion to make—I am partly responsible for it—through some commitment that cannot be altered very much it will be necessary to recess early this afternoon, and I am wondering whether it is agreeable to counsel and to the jury if we control our appetites and go through the noonhour until about one o'clock, and then let you have the rest of the afternoon off, until tomorrow morning. Would that be satisfactory to the jury?

(Jurors indicate they agree.)

The Court: How about the lawyers? Is that agreeable to [fol. 496] you, Mr. Nelson?

Mr. Nelson: You mean to go on until one o'clock?

The Court: Until one o'clock and then recess at one until tomorrow morning.

Mr. Nelson: Well, Your Honor, I am not in good shape to

The Court: We will grant a recess before one.

Mr. Nelson: I wish there were breaks.

The Court: We will give you a break at twelve o'clock.

Mr. Nelson: Because you know I am sick and I am barely able to stand up now.

The Court: We will give you a break at twelve o'clock.

Mr. Nelson: But I will do the best I can.

The Court: All right. Mr. Lewis and Mr. Cercone, is that agreeable?

Mr. Lewis: Yes.

[fol. 497] Mr. Cercone: Yes.

The Court: Proceed.

Michael A. Musmanno, a witness called on behalf of the Commonwealth, being first duly sworn, testified as follows:

Direct examination.

By Mr. Lewis:

Q. What is your name?

A. Michael A. Musmanno.

Q. And where do you live?

A. 1321 Island Avenue, Stowe Township, Post Office McKees Rocks.

Q. What is your occupation?

A. I am a Judge, but in this proceeding I am acting as a private citizen. And I would prefer to be referred to as "Mr. Musmanno" and not "Judge Musmanno."

Q. I believe that you are the prosecutor in this Sedition Case, are you not?

A. I don't know if that — the proper terminology—I initiated the prosecution by swearing to an information against the defendant in this case.

Q. Do you know the defendant in this case?

[fol. 498] A. I do know him. Steve Nelson.

Q. And who is the defendant?

A. He is the chairman of the Communist Party of Western Pennsylvania District.

Mr. Nelson: Your Honor, I move that that be struck. If your ruling is going to mean anything at all on the matter of the Communist Party, I believe you ought to hold the witness to keeping himself away from matters pertaining to the Communist Party. I move that you order him to do that, Your Honor.

The Court: Well I cannot limit him to that extent because, as I told you before, intention is involved here, and that may be derived from membership in or activities or association with the Communist Party.

However, I will insist that this question be supported by the information that the witness has, how he knows you are chairman of the Communist Party, rather than to just make that as a declaration.

[fol. 499] Mr. Nelson: Your Honor, I take exception to your ruling. I think this is a roundabout way to bring in the things that you told the jurors would not be tried in this case.

The Court: I told the jurors that membership in the party alone is not sufficient. The activities may be demonstrated on your part to bring you within the Sedition Act. And I will tell them again in the presence of the witness.

By Mr. Lewis:

Q. How do you know that Mr. Nelson was chairman of the Communist Party of Western Pennsylvania?

A. I know he is the chairman of the Communist Party, Western Pennsylvania District, through many sources. He has issued many communications over his signature in that capacity. He wrote me a letter in which he signed himself as, "Steve Nelson, Chairman of the Communist Party, Western Pennsylvania District." I heard him, himself, state that he was the chairman of the Communist Party, Western Pennsylvania District. I have seen his name in the newspapers any number of times so designated. He has never denied that he was the chairman of the Communist Party, Western Pennsylvania District, publicly, so far as [fol. 500] I know. I have seen mimeographed releases sent out in connection with various activities of the Communist Party in which he signed himself as chairman of the Communist Party, Western Pennsylvania District. I asked for him in the Communist Headquarters in Pittsburgh, for the chairman—I asked for "Steve Nelson, Chairman of the Communist Party, Western Pennsylvania District," and I was informed——

The Court: Just a moment, Judge—no hearsay, what you were informed. We have limited Mr. Becker on questions

that were relating to hearsay, and we will have to limit you in the same fashion.

Mr. Nelson: Let him produce those things, that is the proper evidence. And I thank you for admonishing him not to bring in hearsay testimony.

A. (Continuing:) And I heard Mr. Nelson, in this very courthouse, admit himself to be the chairman of the Communist Party, Western Pennsylvnaia District. That is how I know that he is the chairman of the Communist Party, Western Pennsylvania District.

Q. Now do you know where the Communist Headquarters in Pittsburgh was located in July, 1950?

[fol. 501] A. I do.

Mr. Nelson: Your Honor, is the Communist Party going to be tried here?

The Court: No, sir. We emphasized that several times, Mr. Nelson.

Mr. Nelson: Why doesn't the prosecutor ask the questions that would lead in the direction of my activities?

The Court: This is the groundwork for it. If he can establish your connection with it, of course, that is proper evidence to submit. If he cannot, then it is not proper.

Mr. Nelson: I object to Your Honor's ruling on this.

The Court: You have an exception to the ruling.

Exception noted.

Mr. Lewis: Read the last question, please.

(Record read as follows: "Q. Now do you know where the Communist Headquarters in Pittsburgh was located in July, 1950? A. I do.")

[fol. 502] By Mr. Lewis:

Q. Where was it located in July, 1950?

A. In the Bakewell Building, Suite 426.

Q. Now have you ever been in the headquarters?

A. I have.

Q. When was the first time that you visited the headquarters of the Communist Party in Western Pennsylvania?

A. I had been there several times looking in, but I never

made a visit to talk with any one with regard to the defendant until July 18, 1950, when I went there and asked for Steve Nelson and was informed that he was not in that day.

Q. And who did you see there on July the 18th, 1950?

A. I saw Benjamin Carruthers.

Q. Did you see anybody else?

A. On that day, only Carruthers.

Q. And how long did you remain there?

A. Just a few minutes.

Q. Now did you return to the headquarters at any other time after July 18th?

A. Yes. I went back the following day, on July 19th. I was accompanied by City Detectives Joseph Becker and George Marshall.

Q. Now did you see anybody there on July 19th, in the headquarters?

A. Yes, I did.

[fol. 502] Q. Who did you see?

A. I saw Carruthers again, and asked for Steve Nelson, chairman of the Communist Party, Western Pennsylvania District. He took me into an office and said, "This is his office, but he is not here." He introduced me to Andrew Onda—who also stated that this was the office of Steve Nelson but he was not in. And then Onda took me through the offices, to what has been termed as the "Literature Room" of the Communist Headquarters—where I met James H. Dolsen.

Q. Now what is the literature room?

A. It was a room which contained literature.

Q. What do you mean by "literature"?

A. Books and pamphlets, newspapers, magazines.

Q. How long did you remain in the headquarters on July the 19th?

A. I would say a little over a half hour.

Q. Now will you describe the headquarters as they were on July 19th when your were there?

A. The headquarters consisted of four rooms, made up of Steve Nelson's office, the district secretary's office—I am giving them in the order in which they run through the suite—the receptionist's office (also used by the stenographer), and the so-called literature room.

Q. And was there anything on the walls when you were in there?

[fol. 504] A. Yes.

Q. Were there pictures on the wall?

A. Yes.

Mr. Nelson: Your Honor, I object to this manner of putting questions. It seems to me that is leading the witness.

The Court: Do not lead the witness.

Mr. Nelson: This witness is a Judge, he ought to know how to answer without being led by another Judge.

The Court: You are objecting to the way they are being asked, not the way they are answered. However, asking the witness whether or not there was anything on the walls, is not leading. Answer the question, Judge Musmanno.

A. You are asking me if there was anything on the walls?

Q. Yes. Did you see anything on the walls?

A. There were some pictures on the walls. There was a picture of William Z. Foster, who was the national chairman of the Communist Party—a picture of him on the wall advertising his book "Twilight of World Capitalism" for [fol. 505] thirty-five cents. There was a picture of Eugene Dennis, general secretary of the Communist Party of the United States. There was a picture of Elizabeth Gurley Flynn, member of the National Board of the Communist Party of the United States, with an inscription, "To my favorite district with love and affection." Then there were —do you want me to go beyond the walls?

Q. Yes, tell us—give us a description of the rest of the headquarters as you saw it there on that day.

A. Yes. There was no picture of an American on any of the walls, of the sixteen walls of those headquarters——

Mr. Nelson: I object to that answer, Your Honor, because these three people are all Americans. And this kind of a remark is——

The Court: We will sustain your objection. We will sustain the objection unless it is disclosed that they were not Americans.

By Mr. Lewis:

Q. Go ahead.

A. The picture of Joseph Stalin, with his ambushing mustache, stared at you from a score of places in the headquarters. And the picture of Lenin, with his shaving brush beard, also glared at you from various places in the head- [fol. 506] quarters. The entire headquarters abounded with books, pamphlets, newspapers, all either glorifying Russia or criticizing or degrading the United States.

Mr. Nelson: Your Honor, I object to this. This is a matter of opinion and not evidence. The man is classifying books that he obviously had a chance to just see on a shelf and make a reference to them as to what they are. I think the proper evidence would be to state: There were books. Period.

The Court: You may offer the books to establish those facts. We will sustain the objection to what they said or did not say.

Mr. Nelson: Thank you.

The Court: I presume these books were confiscated?

Mr. Lewis: The books are all here.

A. (Continuing:) There were handbills and leaflets carpeting the desks and chairs and spilling over on the floor, caricaturing or ridiculing the United States, its courts—

[fol. 507] Mr. Nelson: Your Honor, I believe these leaflets should be introduced as evidence; no opinion should be given, and let the jury pass on what the contents of these leaflets are.

The Court: Will these leaflets be presented?

Mr. Nelson: They should be produced in this case, Your Honor, and they have no business capitalizing on them.

The Court: Will these leaflets be presented?

Mr. Lewis: We have leaflets here, but I don't know whether we have them all or not at this time.

Mr. Nelson: In that case, I move to strike the answer.

The Court: We will eliminate the opinion of the witness as to what they demonstrated.

Mr. Nelson: Thank you.

A. (Continuing:) There were magazines, large magazines, throughout the headquarters, opened and revealing

[fol. 508] pictures of mass Russian flags. There were no such pictures of the American Flag, nor was there any American Flag in this entire establishment.

Mr. Nelson: Your Honor, again I think the maps ought to be introduced in evidence. What is this? Is this going to be opinions just because he is a Judge? Do I have to take this stuff from him?

The Court: You are not taking any stuff from anybody; and if you have an objection, present it in the proper way without any disparaging remarks.

Mr. Nelson: Your Honor, I move that he be ordered to introduce the evidence and let the evidence speak for itself.

The Court: Do you have it, Mr. Lewis?

Mr. Lewis: We have the books, and they will be introduced—if you give us a chance.

The Court: The District Attorney says he will support the testimony of the witness by producing these books.

[fol. 509] Mr. Nelson: In that case, shouldn't he make another opening statement to the jury, Your Honor—that's what he is doing.

The Court: He needn't cover everything in the opening. Proceed, Mr. Lewis.

By Mr. Lewis:

Q. Go ahead.

A. On one of the walls there was a large map of Russia. And then not far from this map which was displayed on the wall there was a roll of maps of Russia. There was no such comparable map of the United States in the entire headquarters.

(Commonwealth Exhibit No. 2, marked for identification.)

Q. I show you Commonwealth Exhibit No. 2, and ask you if you know what that is?

A. That is a map of the nation known as Union of Soviet Socialist Republics, which is called Russia.

Q. Did you ever see that map before?

A. I did.

Q. Where did you see it?

[fol. 510] A. I saw this map on the wall in the so-called

literature room of the Communist headquarters, 426 Bakewell Building, 417 Grant Street.

Mr. Lewis: The Commonwealth offers in evidence Exhibit No. 2, and ask permission to show it to the jury after Mr. Nelson looks at it.

Mr. Nelson: Now I'd like to know what is going to be proven by possession of a map or a map on the wall? What is this going to do with the jury? Are there no maps allowed to be on the place?

The Court: Let's not argue. You asked for an offer, didn't you. What do you offer to prove by the exhibit?

Mr. Nelson: What do you offer to prove?

Mr. Lewis: We are proving what this headquarters looked like, what was in it. And we are going to prove, to follow that up, by showing that this organization was seditious.

The Court: I think the offer——

[fol. 511] Mr. Nelson: Why, because this map was on the wall?

Mr. Lewis: That is only a part of the entire picture.

The Court: The objection is overruled. The offer will be received for the purpose——

Mr. Nelson: I object, Your Honor.

The Court: For the purpose of showing the contents of this room in the Bakewell Building.

Mr. Nelson: I object to it, Your Honor.

The Court: Your objection is noted.

Mr. Nelson: Thank you.

(The map, Exhibit No. 2, shown to the jury.)

(Commonwealth Exhibit No. 3, marked for identification.)

By Mr. Lewis:

Q. I show you Commonwealth Exhibit No. 3, and ask you if you know what that is?

A. I do know what it is.

[fol. 512] Q. What does Commonwealth Exhibit No. 3 consist of, sir?

A. It consists of ten maps of Russia similar—and in fact identical with the map of Russia which I saw on the wall

in the Communist headquarters in the Bakewell Building. These maps were in the same room—not on the wall.

Mr. Lewis: The Commonwealth offers in evidence Exhibit No. 3.

Mr. Nelson: Your Honor, let the record show that these maps, as well as the map that was introduced by Mr. Lewis and Mr. Musmanno——

The Court: You mean Exhibit No. 2.

Mr. Nelson: Were printed in the Russian-American Institute during the Second World War when Russia was our ally and when everybody was proud to have one of these maps.

The Court: It will show on its face what it is, if it is offered in evidence.

Mr. Nelson: The interpretation given to it by Mr. Musmanno and Mr. Lewis is only propaganda.

The Court: Do you object to it, or do you just want to [fol. 513] explain something?

Mr. Nelson: I object to it.

The Court: Objection overruled. The offer will be received.

Exception noted.

The jury, of course, has had the benefit of your observation concerning it on that matter.

The Witness: Do you want me to go on with the description?

By Mr. Lewis:

Q. Please continue with the description.

A. There were numerous bookshelves in the headquarters, and some of the shelves sagged with histories on various phases of Russia——

Mr. Nelson: Your Honor, what does this mean—"sagged"? I think that is an opinion and an interpretation by this witness. He is not giving evidence; he is making a speech.

Mr. Lewis: That is a description.

Mr. Nelson: Your Honor, I suggest that he confine him- [fol. 514] self to the books and the covers of what was in them; and the general nature—which is admissible as

evidence. This man is a Judge and should know better than that.

The Court: We will ask the Judge to refrain from words of description. He can submit the number of volumes that were there. We will ask him to do that rather than tell their effect on the bookshelves or anything of that nature.

Mr. Lewis: He is entitled to give a description and if he uses certain words to describe it, it gives us a clear picture. He is entitled to do that.

The Court: It does not have any evidential value. Let's eliminate those things and limit ourselves to the actual contents there, rather than on how they were setup in the office or anything of that nature.

Mr. Lewis: I think it is important to get a clear picture, [fol. 515] and that is what we are trying to do.

The Court: We can get a truer picture if you give the number of volumes that were there on the history of Russia, rather than how they affected a bookshelf, Mr. Lewis.

By Mr. Lewis:

Q. Continue.

A. There were scores of books on various phases of Russian history, but there is not one book on American history in the entire establishment.

Mr. Nelson: Your Honor, that's again an opinion. The facts will show, in the first trial, that there were books on American history, and he is not telling the truth, Your Honor.

The Court: We will let the jury decide that. You may answer him in your cross examination—ask him about it, ask him on the point of the testimony in the prior trial, if you wish. That is proper cross examination.

Mr. Nelson: Thank you.

Mr. Lewis: I think Mr. Nelson should be warned to make [fol. 516] his objection, to merely make an objection and not make a speech every time to this jury.

The Court: Well, we understand he is not represented by counsel.

Mr. Nelson: They compelled me to go to trial without a lawyer.

Mr. Lewis: You had time to get a lawyer for four months. I object to that statement.

The Court: Gentlemen, I am going to admonish both of you. If there are any remarks to be passed here, address them to me. I will not put up with this argument between counsel at the counsel table.

Mr. Nelson: Your Honor, you know

The Court: Be seated, both of you.

Mr. Nelson: I am no lawyer, Your Honor.

The Court: I will hear nothing further from either of you. Be seated, please.

[fol. 517] By Mr. Lewis:

Q. Continue, Judge.

A. There were hundreds of pamphlets on the constitution of the Communist Party of the United States, and many copies of the constitution of Soviet Russia—but not one copy of the Constitution of the United States of America.

Mr. Nelson: I object.

The Court: Objection overruled. You may cross examine him on it at the proper time, Mr. Nelson.

A. (Continuing:) On another wall in the literature room there was appended a map of Korea (this not as large as the one of Russia which we have just seen); and this map was made up to show the battlelines in Korea. The Communist forces were depicted by arrowheads, sweeping arrowheads; the American forces were shown to be, with appropriate symbols, either stationary or collapsing.

By the Court:

Q. Do we have the map, Mr. Witness?

A. No.

Q. Is it available here?

A. No. I saw that on July 19th. When I returned on [fol. 518] August 31st, when I got the Russia map, the map of Korea had disappeared in the meantime.

Mr. Nelson: I move that this remark, therefore, be struck, Your Honor, about the so called map of Korea.

The Court: We will sustain the objection.

Mr. Lewis: I think he is entitled to describe it. The mere fact that it was gone—the mere fact that it was gone the second time he went to the headquarters doesn't necessarily say we can't describe what was there when he went in the first time.

The Court: We will stand by our ruling, Mr. Lewis.

A. (Continuing:) Surrounding the map there were newspaper clippings taken from communist newspapers, they were pinned and, in some instances, lightly pasted to the walls. These newspaper clippings which I had an opportunity to glance at while Mr. Dolsen was getting the literature for me, always referred to the communist forces in heroic language——

Mr. Nelson: Your Honor, I object again, on the ground [fol. 519] that this man is giving opinions, not introducing evidence.

The Court: Yes, it is too general, Mr. Lewis, now to describe the contents of the office until you have it here.

Mr. Nelson: Thank you, Your Honor.

Mr. Lewis: If the Court please, you can go into a room and see a chair there; you don't have to bring that chair in.

The Court: I am not going to permit him to give details of written documents in a room unless you have them here.

Mr. Lewis: Well, perhaps written documents are objectionable, but certainly not what is on the walls or on a table.

The Court: That is right, but I am not going to have the contents of any written document or any maps demonstrated here without the production of them.

Mr. Lewis: I think there would be an objection to [fol. 520] written documents, but——

The Court: All right then we are agreed.

Mr. Lewis: But as to a description of a map, I think we are entitled to show that.

The Court: Well possibly you are right in that, but we have ruled on it and I will not change the ruling. But as to giving the contents of written instruments, books, literature, newspapers, without producing them here, I will sustain an objection to that each time.

Mr. Lewis: I will agree with that.

The Court: All right, proceed.

A. (Continuing:) There were mimeographed sheets attached to the wall, referring to American intervention in Korea——

Mr. Nelson: Let's have the sheets, Your Honor. Let's have these sheets. You order him to do it and he doesn't listen to you.

The Court: He is not going to give any further details, [fol. 521] just a general description of what they were, without giving the contents of it. That will be satisfactory, but we will not permit him to go beyond that—they were mimeographed sheets referring to a certain matter.

Mr. Lewis: That's all we want.

The Court: All right, proceed.

By Mr. Lewis:

Q. Continue, Judge.

A. Well, just referring to it—in what way it referred to it is what I saw there. General Walker's name was prominently displayed in a notice, and he was referred to as "hangman"——

Mr. Nelson: Your Honor, I insist that it be brought in as evidence—not an opinion of Musmanno's.

The Court: The objection is sustained.

Mr. Lewis: I still say it is not an opinion.

Mr. Nelson: Bring it in.

The Court: It is the contents of the document and ob- [fol. 522] jectionable. I will sustain the objection.

Mr. Nelson: Thank you, Your Honor.

The Court: There was a reference to General Walker on the mimeographed sheets—proceed.

A. (Continuing:) There was a reference to American soldiers as savages. On the wall, close to this map of Korea——

Mr. Nelson: Your Honor, again I repeat the same request—or move for to strike the answer.

The Court: Well, that is mere reference——

Mr. Nelson: That is an opinion, Your Honor; it is not evidence.

Mr. Lewis: It is not an opinion.

The Court: All right, I overrule the objection. Proceed.

Mr. Nelson: What am I to do, Your Honor? One Judge is prosecuting; another Judge is a witness—what am I, as a layman, going to do?

[fol. 523] Mr. Lewis: I object to that statement, and I make a motion that it be stricken from the record.

The Court: Your motion will be granted. Your objection is overruled in this instance.

Proceed, Mr. Lewis.

By Mr. Lewis:

Q. All right.

A. There was another mimeographed sheet there with the legend: "Do not send one rifle or gun for American mass murder." I saw also—

Mr. Nelson: I move to strike that, Your Honor.

The Court: Motion refused.

A. (Continuing:) I saw also some brassards with the red initials "CPA" (Communist Party of America). There were mimeograph machines in the office, typewriters, telephones, the usual office equipment.

Mr. Nelson: Your Honor, is that a crime to have a typewriter in the office?

The Court: He is describing the contents of the of-
[fol. 524] fice.

Mr. Nelson: Or a mimeograph machine?

The Court: He is describing everything that was there. Objection overruled.

A. (Continuing:) Filing cabinets—I say the usual office equipment—large signs advertising the "Daily Worker", calling on the people to purchase the "Daily Worker" to meet a certain subscription date.

Mr. Nelson: What is wrong with that, Your Honor?

The Court: You can argue that to the jury, don't ask questions concerning it now. If you have an objection, why let me have it. You will have ample opportunity to cross examine and to argue any one of these points you wish to the jury, sir.

By Mr. Lewis:

Q. Are you through with your description?

A. The general description, yes.

(Commonwealth Exhibit No. 4 marked for identification.)

[fol. 525] The Court: Pardon me just a moment. You may inform Mr. Nelson of the inquiry for him.

By Mr. Lewis:

Q. I show you Commonwealth Exhibit No. 4, and ask you if you ever saw that before?

A. Yes, I have.

Q. And where did you see it?

A. In the Communist headquarters in the Bakewell Building.

Q. On what date?

A. On July 19th.

Q. And where was it when you saw it?

A. It was on a filing cabinet, and was handed to me by James H. Dolsen.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 4, and ask permission to show it to the jury.

Mr. Nelson: I object.

The Court: You say you do object?

Mr. Nelson: Yes.

The Court: Objection overruled.

[fol. 526] (Commonwealth Exhibit No. 4 shown to jury.)

Mr. Nelson: Your Honor, let the record show that the magazine that is now being shown to the jury is a monthly magazine that's been published for about twenty-five years; you can buy it in at least half a dozen places——

The Court: Do not testify at this time.

Mr. Nelson: And in libraries.

The Court: You may describe it when your turn comes to testify.

Mr. Nelson: I would like to know what the intent is of showing this magazine to the jury. What's criminal about that?

The Court: That is another descriptive item concerning.

the contents of the headquarters in the Bakewell Building. I assume that these matters which you are indicating are shown on the editorial page of the publication.

Mr. Nelson: That is right.

The Court: All right, you may argue to the jury from [fol. 527] that, if it is demonstrated there. If it is not demonstrated there, you may testify when you take the stand, if you do take the stand, in connection with your defense.

Mr. Nelson: Your Honor, may I just ask the Court to permit me to talk to an attorney that I have been discussing to come into this case? I don't know whether he has agreed to my terms completely, but I'd appreciate it if the Court will let me talk to him.

The Court: We will certainly afford you the opportunity of engaging counsel as soon as possible. If there is a man here that you want to talk with, we will recess to give you the opportunity of engaging him if he is available.

Mr. Nelson: Well, would the Court be kind enough to grant me until tomorrow morning to give me a chance to arrange that? The man has just come in now and obviously he doesn't know anything about it, even at the stage that we are at.

The Court: Well, we are going to discontinue here at [fol. 528] one o'clock anyway, Mr. Nelson. So that you will have the afternoon, but I will give you an opportunity of discussing his hire with him now for a few minutes—but we will continue until one o'clock.

Mr. Nelson: Well, I object to your ruling that I must continue under the circumstances.

The Court: Your exception will be noted.

Exception noted.

Mr. Nelson: That you are compelling me to go on without such a discussion.

The Court: I will give you ten minutes to discuss the matter with him at this time. Then we will resume and continue until one o'clock.

Mr. Nelson: Certainly I can't settle the matter in ten minutes.

The Court: I don't know, possibly you couldn't. I am interrupting this trial for your convenience and benefit.

since you mentioned the fact that a man has entered the [fol. 529] room within the last few minutes.

Mr. Nelson: I think you are in charge of this matter, Your Honor, and you are not only responsible for what is going to happen to me, it seems to me, but you have a greater duty than that, and it seems to me that the haste of not allowing me this hour—that's all it would be, an hour and a half or an hour and twenty minutes—so I can discuss with him, so I can get some assistance in this case, it seems to me it is not unreasonable a request.

The Court: We are granting you ten minutes at this time, Mr. Nelson. Recess for ten minutes.

Short recess.

(After recess.)

Mr. Nelson: May it please the Court, I have here Mr. Louis Fleischer from New York City and, if the Court please, he will explain his position, or, rather, his association with this matter.

[fol. 530] The Court: All right, Mr. Fleischer, we will be glad to hear you.

Mr. Fleischer: Thank you, Judge.

For the record, my name is Louis Fleischer. I am an attorney duly admitted to practice in the Courts of the State of New York, and I maintain my offices at 154 Nassau Street, Borough of Manhattan, City and State of New York.

Now I have——

The Court: Are you engaging now to represent the defendant in this matter.

Mr. Fleischer: I would like to make an application to the Court so that the Court would understand just precisely what my position is, and I think from there we can have an understanding as to whether or not I am his counsel at this juncture. If the Court will indulge me a moment I will make my application so that we can clarify as to just exactly how I stand in this case.

The Court: All right, we will hear you, Mr. Fleischer.

[fol. 531] Mr. Fleischer: Thank you. I have had a series of discussions and conferences with Mr. Nelson, the defendant in this case——

The Court: Do you think, Mr. Cercone, Mr. Lewis, that this matter should be discussed at side bar?

Mr. Lewis: Yes, I think it should.

The Court: Come forward. Since you are not in the case yet we will not make this a matter of record.

(Discussion at side bar off the record.)

The Court: All right, proceed.

(Commonwealth Exhibits Nos. 5, 6 and 7, marked for identification.)

By Mr. Lewis:

Q. I show you Commonwealth Exhibit No. 5, and ask you if you know what that is?

A. Yes, I do.

Q. What is it?

A. It is a magazine.

[fol. 532] Q. And did you ever see it before?

A. I did.

Q. And where did you see it?

A. I saw it at the Communist Headquarters in the Bakewell Building.

Q. When did you see it?

A. I saw the exteriors generally on July 19th, and then I saw them more completely on August 31st.

Q. I show you Commonwealth Exhibit No. 6, and ask you if you ever saw that before?

A. Yes, the same answer as given to the preceding, as given on the preceding exhibit.

Q. That is a magazine, too, is it?

A. Yes.

Q. I show you Commonwealth Exhibit No. 7, and ask you if you ever saw that before?

A. Yes, the same answers as on the two previous exhibits.

Q. You saw Commonwealth Exhibits 5, 6 and 7 in the Communist Headquarters?

A. That is right.

Mr. Lewis: We offer in evidence Commonwealth Exhibits 5, 6 and 7.

Mr. Nelson: I object.

[fol. 533] The Court: Objection overruled. Exception noted.

Exception noted.

Mr. Lewis: I would just like to show the cover to the jury.

(Exhibits 5, 6 and 7 shown to the jury.)

(Commonwealth Exhibit No. 8, marked for identification.)

By Mr. Lewis:

Q. I show you Commonwealth Exhibit No. 8, and ask you to look at the contents, and ask you if you ever saw that before?

A. I did.

Q. Where did you see it?

A. I saw them in the Communist Headquarters on July 19th, and then again on August 31st. There was a larger number on the 19th when I saw this item.

Mr. Nelson: Let the record show that there are these three bands that indicate "Communist Party of the United States", that are worn at mass meetings and other places, [fol. 534] as committee people do. And I object to the introduction and the intent being put on the meaning of those brassards.

The Court: Objection overruled.

Exception noted.

Mr. Lewis: I now offer in evidence Commonwealth Exhibit No. 8 and ask permission to show them to the jury.

(Exhibit No. 8 shown to the jury.)

(Commonwealth Exhibit No. 9, marked for identification.)

By Mr. Lewis:

Q. I show you Commonwealth Exhibit No. 9, and ask you if you ever saw that before?

A. I did.

Q. And where did you see it?

A. I saw it in the Communist Headquarters on July 19th, and saw it again on August 31st.

Q. What is that, this exhibit that you see?

A. It is a framed large photograph of Elizabeth Gurley [fol. 535] Flynn, with the inscription, "To my favorite district, Western Pennsylvania, with love and good wishes, Elizabeth Gurley Flynn, February, 1948."

Q. Now do you know who Elizabeth Gurley Flynn is?

A. Yes. She is a Communist of many years standing, and at that time was a member of the National Board of the Communist Party of the United States.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 9, and ask permission to show it to the jury.

The Court: Any objection, Mr. Nelson?

Mr. Nelson: Certainly I object. I don't know what the purpose of putting a picture of a woman in is—I don't know what they intend to prove by that.

The Court: Well, along with the——

Mr. Nelson: I think it is ridiculous.

The Court: It is descriptive of what was found in the headquarters.

Mr. Nelson: It is positively ridiculous for the prosecutor [fol. 536] to bring stuff in like that.

The Court: Objection overruled.

Exception noted.

(Exhibit No. 9 shown to the jury.)

Mr. Nelson: For the record, if that is necessary, I know the person of Mrs. Flynn, and I think Judge Musmanno knows her——

Mr. Cercone: I object to that.

The Court: Don't testify to that at this time, Mr. Nelson. You may testify to that when the proper time comes.

Mr. Nelson: Mr. Musmanno met her in the Sacco and Vanzetti campaign when he fought for the freedom of Sacco and Vanzetti.

Mr. Lewis: I object to that and make a motion that it be stricken.

The Court: It will be stricken from the record and the jury instructed to disregard the remark.

Mr. Lewis: I want to point out the inscription here: "To [fol. 537] my favorite district, Western Pennsylvania, with love and good wishes, Elizabeth Gurley Flynn, February, 1948."

(Commonwealth Exhibit No. 10, marked for identification.)

By Mr. Lewis:

Q. I show you Commonwealth Exhibit No. 10, and ask you what that is, if you know?

A. I do know.

Q. What is it?

A. It is a biography of Joseph Stalin, the present ruler of Soviet Russia.

Q. Did you ever see that book before?

A. I did.

Q. Where did you see it?

A. I saw it in the Communist Headquarters.

Q. And when did you see it?

A. I saw it on July 19th, and saw it again on August 31st.

Mr. Nelson: Objection.

The Court: Objection overruled.

Mr. Lewis: We offer in evidence Commonwealth Ex-[fol. 538] hibit No. 10, and ask permission to show it to the jury.

(Exhibit No. 10 shown to the jury.)

(Commonwealth Exhibit No. 11, marked for identification.)

By Mr. Lewis:

Q. I show you Commonwealth Exhibit No. 11, and ask you if you ever saw that before?

A. I did.

Q. Where did you see it?

A. In the Communist Headquarters.

Q. When did you see it?

A. On July 19th I saw them on shelves.

Q. What is Commonwealth Exhibit No. 11?

A. This is a box full of biographies of Joseph Stalin similar to the exhibit I just identified.

Mr. Nelson: I have just a question, Your Honor: What happened to 9 and 10—or is there a mistake?

The Court: Nine was the framed photograph of Elizabeth Gurley Flynn, and ten was the original or first copy of

[fol. 539] the biography of Joseph Stalin introduced this is Exhibit No. 11.

A. (Continuing:) Yes, I saw those.

Q. Do you want to count them so we can have it for the record?

A. According to my rapid count, there are eighty-four copies.

Q. In the carton designated as Commonwealth Exhibit No. 11—here's another one in the bottom?

A. Eighty-five.

Mr. Nelson: What number were there?

Mr. Lewis: Eighty-five.

Mr. Nelson: Are you going to give them to the jury, copies of it?

Mr. Lewis: Well, they are in evidence—I don't know whether I offered them. We offer Commonwealth Exhibit No. 11 in evidence.

The Court: Any objection?

Mr. Nelson: Which is that?

The Court: To Exhibit No. 11, the eighty-five volumes.

[fol. 540] Mr. Nelson: Yes, I object on the grounds——

The Court: Objection overruled.

Mr. Nelson: That non-marked copies be given to the jurors.

The Court: The jurors have access to everything that is offered in evidence, Mr. Nelson, after they commence their deliberations.

Mr. Nelson: It will take a long time to read all that stuff.

(Commonwealth Exhibit No. 12, marked for identification.)

By Mr. Lewis:

Q. I show you Commonwealth Exhibit No. 12, and ask you if you know what that is?

A. A copy of the "Daily Worker."

Q. Of what date?

A. July 18, 1950.

Q. Did you ever see it before?

A. I did.

Q. Where did you see it?

[fol. 541] A. In the Communist Headquarters in the Bakewell Building.

Q. When?

A. On July 19th, 1950.

Q. Now can you tell us what the "Daily Worker," is?

A. The "Daily Worker," is the organ of the Communist Party of the United States, in the United States.

Mr. Nelson: Objection.

The Court: For what reason?

Mr. Nelson: He doesn't know that. That's his opinion. Let him read it into the record if it is on there.

The Court: You may cross examine him on it, Mr. Nelson, later.

Mr. Lewis: We offer in evidence Commonwealth Exhibit, No. 12, and ask permission to show it to the jury.

The Court: Objection noted and overruled. What is the date of the issue?

Mr. Lewis: July 18, 1950.

(Exhibit No. 12 shown to the jury.)

[fol. 542] Mr. Nelson: What is this thing the prosecution is pointing out to the jurors? May the record show that?

The Court: Just the front page.

Mr. Lewis: I am showing them the paper itself.

Mr. Nelson: I mean, is there any particular headlines?

Mr. Lewis: I didn't point anything out to them; I merely showed them the paper.

Mr. Nelson: The newspaper?

Mr. Lewis: The newspaper.

(Commonwealth Exhibit No. 13, marked for identification.)

By Mr. Lewis:

Q. I show you Commonwealth Exhibit No. 13, and ask you what that is?

A. It is a copy of the Constitution of the Communist Party of the United States of America.

Q. Did you ever see that before?

A. I did.

[fol. 543] Q. And when did you see it?

A. I saw it on July 19th.

Q. Where?

A. In the Communist Headquarters in the Bakewell Building.

Mr. Nelson: I move that it be read to the jury and copies given to each of them.

The Court: Are you offering it, Mr. Lewis?

Mr. Lewis: I offer in evidence Commonwealth Exhibit No. 13, and ask permission to show it to the jury.

The Court: It is received and you may show it to the jury. It will be sent out with them and they may read it during their deliberations. We will not take the time to read it to them now.

Mr. Lewis: I will just show it to them. The frontispiece says, "Constitution of Communist Party of the United States of America."

(Exhibit No. 13 shown to the jury.)

(Commonwealth Exhibit No. 14, marked for identification.)

[fol. 544] By Mr. Lewis:

Q. I show you Commonwealth Exhibit No. 14, and ask you if you know what that is?

A. I do.

Q. What is it?

A. I will see if they are the same all the way down to the bottom. They are copies of the Constitution of the Communist Party of the United States.

Q. And did you ever see these copies before?

A. I did. I saw them in the Communist Headquarters on July 19th, 1950, and then I saw them again on August 31st, 1950.

Mr. Nelson: May I ask the Court what the purpose is of showing these copies?

The Court: The same purpose as the other exhibits, to show the contents of the office. Am I correct, Mr. Lewis?

Mr. Lewis: Yes.

A. (Continuing:). That is a carton full of them. I am not taking them all out. They were on shelves when I saw them on July 19th.

Mr. Nelson: Your Honor, since they are not being seafed, [fol. 545] I don't know. I can't vouch what else is going to be in there when the jurors come and look it over later on. If they should do so, I take no responsibility if there is anything else in there, that may be dropped in there that isn't there now.

The Court: The only contents that were identified were the constitutions. If there is anything else in there when it is submitted to the jury, it will be removed.

(Commonwealth Exhibit No. 15, marked for identification.)

By Mr. Lewis:

Q. I show you Commonwealth Exhibit No. 15, and ask you what that is, if you know?

A. It is the Communist Manifesto.

Q. And did you ever see that exhibit before?

A. I did.

Q. Where did you see it?

A. I purchased this—I saw it in the Communist Headquarters in the Bakewell Building on July 19th.

Q. You testified, I believe, that you purchased some books over there?

[fol. 546] A. I didn't say anything about purchasing them, but I did.

Q. Did you purchase any books?

A. I purchased many books and pamphlets and newspapers on that day.

Q. Who did you purchase those books from?

A. I purchased them from James H. Dolsen, who was in charge of the literature department of the Communist Headquarters.

Q. And was there a bookstore in the Communist Headquarters?

A. Yes, there was this large accumulation of Communist literature in the headquarters for sale.

Q. Now you say that this was one of the books that you purchased on July 19th?

A. That is correct.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 15.

Mr. Nelson: You mean as a whole?

Mr. Lewis: As a whole.

Mr. Nelson: Well, Your Honor, I object to having this trial turning into a trial of books.

The Court: The objection is overruled.

Mr. Nelson: I move that if there are any of those books [fol. 547] going to be handed to the jurors, that they be handed clean copies instead of marked-up as they are now. Let each juror look and find what he thinks he is entitled to find in there, or whatever there is in there.

The Court: Well, if there are any incomplete periodicals or books submitted in evidence we will attempt to supply full and true copies. Direct our attention to any damaged or partial books and we will try to rectify it so the jury has the benefit of the full periodical or publication.

Mr. Nelson: Let the record show, Your Honor, that the book is 102 years old and it has been printed all over the world.

The Court: You may testify to that later, if the book shows that itself; or, you may point it out to the jury.

Mr. Nelson: I am going to have Musmanno tell me what books to read from now on.

The Court: We will dispense with the side remarks like that, Mr. Nelson. Proceed.

[fol. 548] By Mr. Lewis:

Q. Can you tell us when this book was copyrighted?

A. This edition was copyrighted in 1948.

Q. Where?

A. By the International Publishers Company, Incorporated.

Mr. Lewis: Now we would like to have the witness read those excerpts from Commonwealth Exhibit No. 15, from this book, which have been incorporated in the indictment.

The Court: Let me see the indictment.

Mr. Nelson: I object to reading any excerpts, Your Honor. If the jury is going to pass on the book they ought to read it to them in toto, not a remark taken out here and there. I could take any book and make it appear to be just the opposite of what it is. Your Honor has seen people quoting the Bible and making it appear as though it is

some terrible document if you just take a remark here and there. Therefore, I object to this type of reading of excerpts by this prejudicial witness, who has an ax to grind.

[fol. 549] The Court: Mr. Nelson, I appreciate the thought behind your motion; but the task would be endless if we were to proceed to read completely all of the written material that is offered. And I shall certainly not permit the same to be done. To a limited extent I am compelled to permit the attention of the jury to be directed to that part of the periodical upon which the indictment is based, and very limitedly to read into the record that part which is being emphasized, without expression of opinion concerning it. Likewise with you in the matter of your defense, if there are any excerpts from any of the periodicals supporting your contentions you may have the same privilege of emphasizing those points by reading them into the record—with the understanding on both sides that it will be a limited reading from these periodicals or books. Proceed.

Mr. Nelson: You will note my objection?

The Court: We will note your objection, sir.

Mr. Nelson: And incidentally, Your Honor, this same wit-

[fol. 550] ness read those very same excerpts to the Grand Jury without my having a chance to read to the Grand Jury my point of view—and that's why I was indicted.

The Court: That is very likely, because the indictment includes it.

Mr. Nelson: I object to this one-sided business.

The Court: This jury will be informed as to the action of the Grand Jury, Mr. Nelson, in my charge to it after the completion of the case, and the effect of the Grand Jury action as to you.

Proceed, Mr. Lewis.

By Mr. Lewis:

Q. All right.

A. On Page 20, at the bottom of the page, I read: "In depicting the most general phases of the development of the proletariat we traced the more or less veiled civil war raging within existing society, up to the point where that war breaks out into open revolution, and where the violent

overthrow of the bourgeoisie lays the foundation for the sway of the proletariat.'"

[fol. 551] On page 22——

By Mr. Nelson:

Q. What was the first page?

A. That was Page 20, the last paragraph, going over to the top of Page 21.

Mr. Nelson: May I have a copy of this so I can follow it?

The Court: Do you have any extra copies?

Mr. Lewis: We may have one or two of this, but I will try to get him a copy of this.

The Court: Well, if you have it available there——

Mr. Lewis: They have copies that were furnished to them before, copies of everything they got.

Mr. Nelson: I had no idea what you are going to do, Your Honor. I am confronted——

Mr. Lewis: We don't have any right now.

Mr. Nelson (Continuing): ——now with carrying a whole truckload of literature here.

[fol. 552] It is impossible to comply with your request by counsel, due to the fact that there are no other copies available.

A. (Continuing:) On Page 22, the last paragraph: "The immediate aim of the Communists is the same as that of all other proletarian parties: Formation of the proletariat into a class overthrow of the bourgeois supremacy, conquest of political power by the proletariat."

On Page 23, the middle of the page: "In this sense, the theory of the Communists may be summed up in the single sentence: Abolition of private property."

On Page 24, last sentence: "The abolition of bourgeois individuality, bourgeois independence, and bourgeois freedom is undoubtedly aimed at."

Page 25, middle of the page: "In a word, you reproach us with intending to do away with your property. Precisely so; that is just what we intend."

Page 27: "The bourgeois family will vanish as a matter of course when its complement vanishes and both will vanish with the vanishing of capital."

Page 29, last paragraph: "The Communist revolution is the most radical rupture with traditional property relations; no wonder that its development involves the most [fol. 553] radical rupture with traditional ideas."

Page 30, top of the page: "The proletariat will use its political supremacy to wrest, by degrees, all capital from the bourgeoisie, to centralize all instruments of production in the hands of the state, that is, of the proletariat organized as the ruling class; and to increase the total of productive forces as rapidly as possible. Of course, in the beginning, this cannot be effected except by means of despotic inroads on the rights of property, and on the conditions of the bourgeois production; by means of measures, therefore, which appear economically insufficient and untenable, but which, in the course of the movement outstrip themselves necessitate further inroads upon the old social order, and are unavoidable as a means of entirely revolutionizing the mode of production."

Page 44: "In short, the communists everywhere support every revolutionary movement against the existing social and political order of things. In all of these movements they bring to the front, as the leading question in each case, the property question, no matter what its degree of development at the time. Finally, they labor everywhere for the union and agreement of the democratic parties of all countries. The Communists disdain to conceal their views and aims. They openly declare that their ends can be attained only by the forcible overthrow of all existing [fol. 554] social conditions. Let the ruling classes tremble at a Communist revolution."

Q. Now, you mention the term "Bourgeoisie" when you were reading some of these excerpts, and the term "Proletarian"; can you tell the jury what is meant by the term "Bourgeoisie" in the Communist literature?

Mr. Nelson: Your Honor, these interpretations that are being placed on any of the meanings of these words—I object. These people have some intelligence to judge them; they are not idiots; they can read them without being led around by somebody who has an angle there to put over his point of view. And I would rather say, Your Honor, that it would be the proper thing to do to let the jurors read the

pamphlet if they wish and let them make their own decisions on the basis of that—not be colored by this man's biased interpretation. I believe that would be the fairest thing to do, and we will save an awful lot of time; we are not going to get tangled up in these quotations here.

The Court: Well, I have stated, Mr. Lewis, that I would [fol. 555] permit the reading of excerpts from these documents, but as far as expressing their meaning was concerned, I was going to limit you in that respect. It seems to me they are written documents; if there is expression or meaning, their interpretation, like all written documents, it is for the Court—unless there is some ambiguity or uncertainty in their meaning. I think on that basis it would be for the Court to explain to the jury, in its charge, the meaning of these excerpts which you have read. I realize that in some of these cases of this nature that experts who, by study, have possibly gained additional knowledge which is available to a jury of this nature; however, at this stage, unless Judge Musmanno is qualified as an expert on these matters first, I cannot permit him to comment or explain the meaning of any of the excerpts which he has read.

Mr. Lewis: I will be very willing to qualify him—which I think we can do very readily.

Mr. Nelson: Your Honor, I object to Musmanno being [fol. 556] brought in here as an expert on it.

The Court: I don't know whether he can qualify him.

Mr. Nelson: I don't think he can. It's like asking Hitler to express an opinion on what democracy is.

The Court: Unless he is qualified to do so—and I would certainly afford him the opportunity of showing that he has more knowledge than you and I or any member of the jury has—before I would permit him to comment on it.

Mr. Nelson: Your Honor, you can't have an employer in a shop qualify on the rights and duties of trade unions.

The Court: Well, I don't know.

Mr. Nelson: Consequently, you couldn't have him qualified on issues that he deliberately tries to distort.

The Court: I think we are going to recess. We are sup- [fol. 556-a] posed to recess at one o'clock; however, we are going to recess at this time anyway. But keep my remarks in mind, Mr. Lewis, when we resume tomorrow morning.

We will recess now until 9:30 tomorrow morning.

(Court adjourns at 12:55 o'clock P. M. until Thursday, December 20, 1951, at 9:30 A. M.)

[fol. 557] Thursday, December 20, 1951, Court convenes pursuant to recess of yesterday and the taking of testimony continues:

Mr. Nelson: Your Honor, I have this.

The Court: We will have to study this and pass on it a little later. You might give the District Attorney a copy, if you haven't already done so.

Mr. Nelson: I did.

The Court: All right, we will act on it later, Mr. Nelson.

Mr. Nelson: Just one more question, your Honor. I wonder how the record is coming along as far as this witness is concerned. I think I ought to have it on hand before I could even examine him.

The Court: We don't provide copies of the record here. If you want a copy of this you can order it from the reporter. We do not provide copies to the District Attorney or anyone else.

Mr. Nelson: Well, how am I going to cross-examine [fol. 558] him?

The Court: The same as I am doing, taking down notes. That is what I am doing.

Mr. Nelson: You are a judge; I am not a lawyer.

The Court: We are not providing copies to anyone, Mr. Nelson, for any purposes whatsoever.

Mr. Nelson: I am going to be put at a disadvantage on that score.

The Court: If you call it a disadvantage, I am afraid you will be.

Mr. Nelson: And it is more of a disadvantage, your Honor, because I don't know how to handle these questions.

The Court: We will note your objection on the record, sir.

Mr. Nelson: All right.

The Court: Proceed.

[fol. 559] MICHAEL A. MUSMANNO, resumed the stand and testified as follows:

Direct examination (continued).

Mr. Lewis:

Q. Yesterday you testified that the first visit you made to the headquarters was on July 18th, and then you made another visit on July 19th. Did you make any other visits after that?

A. Yes, I went back on August 31st.

Q. And why did you go there at that time?

A. On that day there was an execution of the search warrant.

Q. And how long did you remain there at that time?

A. I was over there, on that occasion, about three hours.

The Court: What date was that again?

Mr. Lewis: August 31st.

The Witness: 1950.

Mr. Lewis:

Q. What happened when you were there on August 31st?

A. I arrived there and found Joe Becker and George Marshall of the City detectives; then Assistant District Attorney Sidney Sanes—the Assistant District Attorney arrived—he may have even gotten there before I did, but certainly about the same time. Bernard Salis, a young man was in charge of the headquarters and was sitting at the [fol. 560] telephone, and he called long distance, New York long distance, and then got the number "Algonquin 4-2215" which is the number of the National headquarters of the Communist Party of the United States in New York. He was describing to the person at the other end of the wire—

The Court: Now just a moment, we will not have any hearsay of what was said over the telephone, Judge Musmanno. I will have to limit you on that.

The Witness: Well, if your Honor please—

The Court: In the presence of the defendant, I don't think that is hearsay, but in the absence of the defendant

conversations between other persons is hearsay, and I will have to protect the defendant's rights in the matter to object to hearsay evidence.

Mr. Lewis: Well, I think he can tell what number was called.

The Court: Yes, I have permitted him to say he called the National headquarters and give the number, but the substance of the conversation, I will have to protect the defendant's rights in that respect.

[fol. 561] Mr. Lewis:

Q. Well, you testified that he called the National headquarters of the Communist Party while you were there?

A. Yes.

The Court: At least I will direct the defendant's attention to the matter that it is hearsay. If he wishes to permit it, I have no reason to eliminate if other than it is hearsay.

Mr. Nelson: Your Honor, I am familiar with these things.

The Court: That is the reason I am directing your attention to the fact that the conversation is hearsay.

Mr. Nelson: And if a question is on discussing the matter that I am familiar with, I will be glad to discuss them with anybody; but I am not familiar with these legal matters and whatever this witness is doing.

The Court: This is conversation.

Mr. Nelson: He ought to know, he is a judge.

[fol. 562] The Court: This is a conversation between Mr. Salis and the person at the other end of the call, Algonquin, a certain number, supposedly the National headquarters of the Communist Party.

Mr. Nelson: As far as that is concerned, your Honor, I don't know what that has got to do with this case.

The Court: Well, do you want it stated what that conversation was, or do you want to object to it?

Mr. Nelson: I don't think it has any relationship to the case.

The Court: All right, then you object to it. I will sustain your objection that it is hearsay.

The Witness: I might say that, just so no one may think I am trying to take any unfair advantage, it was established at the other trial that Mr. Salis is a member of the Communist Party and in charge of the headquarters. It was on that basis that I was testifying.

[fol. 563] Mr. Nelson: What has Salis got to do with it?

Mr. Lewis: We will follow that up.

The Court: We will sustain the objection at this time.

Mr. Lewis:

Q. How long did you remain there on that visit?

A. About three hours.

Q. And did you see any other literature other than the literature you saw on July 19th?

A. Yes, I was there, I have just indicated, a much longer period than I was there on July 19th, and had ample opportunity to examine the entire headquarters—not only the books, but also the documents. We went into the files, that is, Mr. Sanes and I, the Assistant District Attorney, and we made more or less a mental inventory of what was there. In the receptionist's office there was a bookcase which contained books which had nothing to do with Communism. These books were of just general literature, novels and so on. But we did find many documents which were picked up by the Assistant District Attorney.

Q. Were any of those documents and books taken out on August 31st?

A. Yes, we gathered together quite a number of the books and documents. They were bound together with a [fol. 564] cord and brought over here to the District Attorney's offices.

Q. Now during the time that you were in there—well, strike that out. What time did you get there on August 31st?

A. About noon.

Q. And how long did you say you remained there?

A. About three hours.

Q. During the time that you were in there did anybody else come in?

A. Yes. Newspaper men came, newspaper photographers; and then while I was there the mailman arrived (U. S.

postman) and he had some letters to deliver. He handed two of these communications to me. One was a package and another was a letter. The letter carried the Moscow postmark.

Mr. Nelson: Your Honor, may I ask what right this man had to take anybody else's mail? And furthermore, what has this got to do with this case?

The Court: Well, it has.

Mr. Nelson: He had the nerve to take mail for another man—what is the difference where it comes from?

The Court: Are you objecting to it?

Mr. Nelson: Did he say it was for you?

[fol. 565] The Court: Gentlemen, I have to censor both of you again this morning for arguing between yourselves and not addressing your remarks to the Court.

Mr. Nelson: I am sorry, your Honor, but it was stated here a few minutes ago that he took the mail from the mailman. What right did he have to do it?

The Court: He said the mailman handed him a package and a letter. Now we will overrule your objection. The exception is noted.

A. (Continuing:) The mailman handed these articles to me without my having said anything. I glanced at them and I saw that the letter, a long, wide envelope, came from Moscow. It carried the Moscow postmark and was addressed to "Steve Nelson, Chairman, Communist Party, Western Pennsylvania District, 426 Bakewell Building, 417 Grant Street, Pittsburgh, Pennsylvania, U. S. A.". On the left-hand side there were symbols in the Russian language. The package was addressed to "James Dolsen, Literature Department, Communist Party, Western Pennsylvania, 426 Bakewell Building, Pittsburgh, Pennsylvania." It also had Russian symbols on the left hand side of the package, and bore, as I said, the Moscow postmark. I handed these articles of mail back to the postman and said, of [fol. 566] course, I couldn't receive these and for him to keep them in his custody or dispose of them. . . would . . . his routine when an addressee was not avai . . .

Mr. Nelson: Just a minute, your Honor, let the record show that these letters that he is speaking about come

through the United States mail and they could have been opened by the Post Office. And I don't know what mystery Mr. Musmanno wants to attach to the letter that comes through the mail.

The Court: I do not know. He is testifying to the attempt of the postman to deliver this type of mail to that address; the purpose of it we will have to determine later. At least it is admissible in evidence as a foundation here—and for that purpose it is being received. As far as it being noted that it was in the process of delivery by the United States mail, I think the witness has testified to that, that it was handed to him by the postman—I assume it was the regular postman operating under the United States Postal System.

Mr. Nelson: I mean, it wasn't a special courier that [fol. 567] brought it to me from Moscow.

The Court: No. It was a United States postman, as he testified.

All right, proceed.

(Commonwealth's Exhibit No. 16 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit——

The Court: Pardon me just a moment. I should make a further statement in connection with the remark of Judge Musmanno. Any time that I undertake to direct the attention of the defendant to a possible reason for elimination of any testimony, statements made by this witness or any other witness, it is no basis for inferring that they are taking advantage of the defendant, or anything else. I realize that in the discussion of these matters that sometimes we are prone to carry on and continue to make statements which we think are proper but, after all, I am ruling on the matter here. And as I say, I may at times indicate to the defendant the possible objection, but that gives rise [fol. 568] to no unfavorable inferences in any way at all—it is just a matter of a difference of opinion, or maybe just an oversight on the part of the witness.

The Witness: Well, I did want to say that it was introduced in the first trial.

Mr. Nelson: I object to your remark right now.

The Court: All right, your objection is noted on the record.

Mr. Nelson: It appears to me as though that is an effort to play on the relationship between you and the witness and thereby influence the jury by that remark you made just now.

The Court: All right, your objection is noted.

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 16, and ask you what that is?

A. That is a book called "Foundations of Leninism", written by Joseph Stalin.

[fol. 569] Q. And did you ever see that book before?

A. Yes, I did.

Q. Where did you see it?

A. I saw this in the headquarters of the Communist Party in Pittsburgh on July 19th, and purchased it from James Dolsen, who was in charge of the Literature Department there.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 16, and would like the witness to read certain excerpts to the jury.

The Court: Well, do you want to offer the usual objection to this, Mr. Nelson, or do you not?

Mr. Nelson: Your Honor, I believe if any books are going to be passed on by this jury they ought to be given clean copies, unmarked by prejudicial and political speeches by this witness.

The Court: We will endeavor to replace any of them that you wish replaced.

Mr. Nelson: I object to this man's reading excerpts out of that context, your Honor. He can distort those things [fol. 570] and make them look upside down. That is what he is doing all the time.

The Court: We will note your objection to the offer of the books, and we will note your objection to his reading of any excerpts therefrom—and we will overrule your objection.

The Witness: If the Court please, I am going to ask——

The Court: Exhibit No. 16 will be received in evidence, and the witness privileged to read those excerpts from it which form the basis of the indictment.

The Witness: I am going to ask for the protection of the Court from the insults of this defendant. He started yesterday addressing remarks about my testimony—he just said now that I was making political speeches.

Mr. Nelson: That is what you have been doing.

The Witness: I am merely answering the questions put to me by the District Attorney. And I appeal to the Court for the protection from these derogatory remarks which [fol. 571] have no justification whatever.

The Court: I will protect you insofar as it is possible to do so, and will ask the defendant to refrain from making remarks of a personal nature. As far as his remarks concerning any of the offers of evidence, or to any questions put to the witness, I will respect his objections if put in proper language.

Mr. Nelson: Your Honor, I am not a lawyer, and I defend my honor here and all of what I have done for 30 years.

The Court: I appreciate that.

Mr. Nelson: I have done no harm, committed no crime, and I am not going to take this event from this guy, even if he is a Supreme Court judge. I won't take anything from him, your Honor, without a challenge.

The Court: Mr. Nelson, I am trying to be very patient. You are addressing arguments to me which are proper to be addressed to the jury when your turn comes to open your case and to argue your case. I will again ask your [fol. 572] fullest cooperation here, and try to refrain from any personal references to the witnesses or anything else of that nature.

Mr. Nelson: This man has done much personal harm to me and my family and my friends; how do you expect me to sit here quietly when he gets away with that kind of stuff here.

The Court: I will admonish the District Attorney and any witnesses he calls to respect the procedure and decorum of the Court room, and to cooperate, too, in order that this trial may proceed fairly, expeditiously. Now if my request,

made in the vein that I am making it, sincerely in order to accomplish justice to both sides, if this is not respected, then I, as I said yesterday, will have to do something about it.

Mr. Lewis:

Q. All right, Judge.

A. Reading from page 22, at the bottom of the page

[fol. 573] Mr. Nelson: I haven't got a copy, your Honor. I can't follow what he is reading.

The Court: Either have I.

Mr. Nelson: Those things are completely out of this context, I can't even object intelligently.

Mr. Lewis: Mr. Nelson has the entire set.

The Court: Do you have an extra copy?

Mr. Lewis: I do not have an extra copy of this book. I will say to the Court that Mr. Nelson has an entire set of these books.

Mr. Nelson: You got them over in the warehouse and a bunch of warehouse men that the County is paying for to have them truck the books in every morning.

The Court: We do not have a copy to provide you; he does not have a copy to provide me. I will ask the witness to read the excerpts slowly from the book, and you may have the use of the book when it comes time for you to cross-examine. I will ask him to tell the page that it is on, [fol. 574] and I will ask him to read it slowly so that you may be informed as well as you can be, and as well as I can be, of what he is reading.

Mr. Nelson: In other words, now this book is on trial, your Honor?

The Court: This book has been offered in evidence and I am permitting him to read excerpts from it which support the allegations of the indictment, and nothing else.

A. (Continuing:) On page 22, at the bottom of the page, I read: "First dogma: concerning the conditions for the seizure of power by the proletariat. The opportunists assert that the proletariat cannot and ought not to take power unless it constitutes a majority in the country. No proofs are adduced, for there are no proofs, either theo-

retical or practical, that can justify this absurd thesis. Let us assume that this is so, Lenin replies to these gentlemen of the Second International: but suppose a historical situation has arisen (a war, an agrarian crisis, etc.), in which the proletariat, constituting a minority of the population, has an opportunity to rally around itself the vast majority of the labouring masses; why should it not take power then?"

On page 24, I read from the middle of the page: "Does not the history of the revolutionary movement show that [fol. 575] the parliamentary struggle is only a school for and an aid in organizing the extra-parliamentary struggle of the proletariat, that under capitalism the fundamental problems of the working-class movement are solved by force, by the direct struggle of the proletarian masses, their general strike, their insurrection?"

Page 28, at the bottom of the page: "But theory can become a tremendous force in the working-class movement if it is built up in indissoluble connection with revolutionary practice."

Page 35, at the bottom of the page: "Now we must speak of the world proletarian revolution; for the separate national fronts of capital have become links in a single chain called the world front of imperialism, which must be opposed by a common front of the revolutionary movement in all countries."

Page 36, at the top of the page: "Where will the revolution begin? Where, in what country, can the front of capital be pierced first? Where industry is more developed, where the proletariat constitutes the majority, where there is more culture, where there is more democracy—that was the reply usually given formerly. No, objects the Leninist theory of revolution; not necessarily where industry is more developed, and so forth. The front of capital will be pierced where the chain of imperialism is weakest, for the proletarian revolution is the result of the breaking of the chain of the world imperialist front at its weakest link."

[fol. 576] Page 37, at the top of the page: "Where will the chain break in the near future? Again, where it is weakest. It is not precluded that the chain may break, say, in India."

Page 45: "For this the victory of the revolution in at least several countries is needed. Therefore, the development and support of revolution in other countries is an essential task of the victorious revolution. The latter, the revolution in the victorious countries, must regard itself not as a self-sufficient entity but as an aid, as a means of hastening the victory of the proletariat in other countries. Lenin expressed this thought in a nutshell when he said that the task of the victorious revolution is to do 'the utmost possible in one country for the development, support, and awakening of the revolution in all countries.'"

Page 48: "The fundamental question of revolution is the question of power. (Lenin) Does this mean that all that is required is to assume power, to seize it? No, it does not mean that. The seizure of power is only the beginning. For many reasons the bourgeoisie that is overthrown in one country remains for a long time stronger than the proletariat which has overthrown it. Therefore, the whole point is to retain power, to consolidate it, to make it invincible. What is needed to attain this? To attain this it is necessary to carry out at least the three main tasks that [fol. 577] confront the dictatorship of the proletariat 'on the morrow' of victory:

"(a) to break the resistance of the landlords and capitalists who have been overthrown and expropriated by the revolution, to liquidate every attempt on their part to restore the power of capital;

"(b) to organize construction in such a way as to rally all the labouring people around the proletariat, and to carry on this work along the lines of preparing for the liquidation, the abolition of classes;

"(c) to arm the revolution, to organize the army of the revolution for the struggle against foreign enemies, for the struggle against imperialism.

"The dictatorship of the proletariat is needed to carry out, to fulfil these tasks."

Page 60: "The Soviet organization of the state alone is capable of immediately and effectively smashing and finally destroying the old, that is, the bourgeois, bureaucratic and judicial apparatus."

Mr. Nelson: I renew my objection, your Honor, that these

things were read out of context, and no one can intelligently form an opinion as to whether that referred to this Country or any other country, this or that place.

[fol. 578] The Court: Well, you have——

Mr. Nelson: Therefore, I say, your Honor, that that is objectionable reading.

The Court: You are moving to strike the excerpts from the record, is that what you are doing?

Mr. Nelson: That is right.

The Court: Your motion is refused. We have already ruled on the right to read the excerpts as to the indictment made, insofar as the indictmem is concerned. Insofar as other matters are concerned, you will have your privilege of cross-examination at the termination of the Commonwealth's testimony by this witness. Proceed.

(Commonwealth's Exhibit No. 17 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 17, and ask you if you ever saw that before?

A. I have.

Q. And where did you see it?

A. In the Communist headquarters.

[fol. 579] Q. And when did you see it?

A. I saw it on July 19th, when I purchased it from Olsen, who was in charge of the Literature Department of the Communist headquarters.

Q. What is the title of that book?

A. "The Dictatorship of the Proletariat."

Q. Who published it?

A. Published by the International Publishers, New York.

Q. Do you know who the "International Publishers" are?

A. Yes.

Q. How do you know that?

A. Because I have been there; I have spoken to individuals who sold the books.

Q. And who is the International Publishers?

A. It is a Communist organization that publishes Communist books.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 17, and will ask the witness to read excerpts from this book.

The Court: The usual objection of the defendant is entered, and overruled.

Mr. Nelson: Pardon?

The Court: I say I will note your objection to this in the [fol. 580] similar fashion as the others, and overruled your objection—if that is your wish.

Mr. Nelson: Well, I will ask you if you are going to take this man's opinion—

The Court: No.

Mr. Nelson: That this is a Communist publication—Communist publishing house.

The Court: I meant the offer of the book.

Mr. Nelson: I see. He made a comment that it is a Communist publication, organization—that is his opinion, he offered no proof.

The Court: Well, I will entertain your motion to strike that remark from the record.

Mr. Nelson: What is the use to strike it, your Honor, if he goes ahead and spills his beans out over here, and then go ahead and strike it? What good will that do here?

The Court: You have been asking many times to strike remarks from the record.

Mr. Nelson: When I know how to do it— as far as I [fol. 581] can see, when the remarks are already in, when he says them, what good is taking them out? I am not an idiot. I don't believe in that kind of stuff.

The Court: I will tell the jury to disregard the remark concerning what kind of an organization it is, other than a publisher of Communist books.

Mr. Lewis: Well, that is what we directed our questions to.

The Court: Whether it was a Communist organization.

Mr. Lewis: That published Communist books.

The Court: Possibly the witness is not qualified to say that, as a matter of fact, but if it does publish books on Communist philosophy and theory, that is within his range of knowledge. So that we will instruct the jury as to the statement concerning that it is a Communist organization, to ignore that.

Mr. Lewis:

Q. All right, proceed.

[fol. 582] A. On page 68, at the top of the page: "The dictatorship of the proletariat cannot come about as a result of the peaceful developments of bourgeois society and of bourgeois democracy; it can come only as the result of the destruction of the bourgeois state machine, of the bourgeois army, of the bourgeois civil administration and of the bourgeois police."

Page 69: "The proletarian revolution is impossible without the forcible destruction of the bourgeois state machine and the substitution for it of a new one."

(Commonwealth's Exhibit No. 18 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 18, and ask you what that is, if you know?

A. It is a pamphlet entitled, "Stalin is Leading Us to Victory for Communism."

Q. Now will you tell us where that pamphlet was published?

A. It was published in Moscow by the Foreign Language Publishing House, published in Moscow in 1950.

Q. Did you ever see that pamphlet before?

A. Yes, I did. I obtained this in the Communist headquarters in Pittsburgh, in the Bakewell Building, on July 12, 1950, from Doisen, who is in charge of the Literature Department of the Communist headquarters.

[fol. 583] Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 18, and ask the witness to read excerpts from the exhibit.

The Court: The objection is overruled.

A. There is only one excerpt to be read from this book, and it is the last sentence of the book, page 24: "Under the leadership of the great Stalin, forward to the victory of Communism!"

(Commonwealth's Exhibit No. 19 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 19, and ask you what that is, if you know.

A. This is a book called "The Twilight of World Capitalism", and it is written by William Z. Foster, who is the National chairman of the Communist Party of the United States.

Q. And did you ever see that book before?

A. Yes. I obtained this in the Communist headquarters on July 19, 1950.

Q. And who had the book at that time?

A. I purchased it from James Dolsen, who is in charge of the literature in the Communist headquarters.

Mr. Lewis: We offer in evidence Commonwealth's Ex-
[fol. 584] hibit No. 19, and ask the witness to read excerpts from the exhibit.

The Court: The objection of the defendant is noted, and overruled.

A. On page 31, at the bottom of the page: "American capitalism is like a sort of monster parasite, living on the body of the rest of the world capitalism; it is cannibalistically devouring the other capitalist countries and growing fat upon their life substance."

On page 37: "American imperialism is like a monstrous, all-consuming spider. It has sucked up most of the available gold supplies of the capitalist world and hoarded them away at Fort Knox. It has made nearly every capitalist nation in the world its debtor; it is stripping the various capitalist nations of their foreign markets, of their economic strength and of their national independence. It has set up a more or less definite political control over all the important capitalist countries in the world. Now it is stretching out its claws for the U. S. S. R., the European new democracies, and the colonial and semi-colonial countries, in the hope that it can overwhelm them, and devour them at its leisure. This is the parasitic, cannibalistic role of American capitalism in the world today."

Mr. Nelson: Your Honor, I believe the prosecution has a large number of copies of these pamphlets that are un-
[fol. 585] marked, and I renew my motion that these pam-

Mr. Nelson: May I say something?

[fol. 612] The Court: I will ask your cooperation again to limit yourself to cross examination at the proper time. I will afford you every right that you are entitled to under any constitutions or laws; and I will do my best to protect you in that way. That is all I ask of you, is your cooperation.

Mr. Nelson: How could I do it, your Honor, when I am no lawyer, and you don't want to adjourn the case for even two days to give me a chance to get lawyers.

Mr. Lewis: I make a motion that that be stricken out.

The Court: That is in the record.

Mr. Lewis: That is just a speech to try to get the sympathy of the jury, and Mr. Nelson knows it. And I object to that kind of statement.

Mr. Nelson: You know there is some attorneys here——

The Court: Recess the Court. When these gentlemen cool down we will resume.

[fol. 613] (Recess)

(After recess)

The Court: Proceed with your additional excerpts from this Exhibit 25.

A. On page 8: "In the last two wars, not the United States, but other countries made great economic sacrifices."

The bottom of that page: "On this question of mass work, it is important to emphasize a number of things, directly to our Party. First, we must stress to every Communist and every Party club the need for individual and club initiative. This question has never been as important as it is right now; the need is not to wait for directives, but to move with confidence and initiative. In this sense we must retrain our Party on the importance of learning how to give leadership to small groups, and not to view mass work as meaning only support for a national conference, a national campaign, or around a national issue. It is important to stress the need for individual Communists and individual clubs to lead the masses in small groups, whether at a shop or department level, in a community or block, in a local union or community

organization. I would say we have to take special steps to retrain our Party in understanding this principal method of work, because in the past period we have become accustomed to relying on national directives. Of course, [fol. 614] we will still have such directives but the stress must be on moving into action whether such directives are received or not."

The last excerpt is: "In this period we must learn to stand on our own feet. Each comrade in the leadership must learn to take a position, to use initiative, without constant consultation."

Mr. Nelson: Your Honor, what is the meaning of these two quotations he read right now? What is the meaning of that? What is the crime in that?

The Court: That is a matter for the District Attorney to argue to the jury in support of their contention, and is a matter for you to argue that it doesn't—and this is not the time for argument.

Mr. Lewis:

Q. Now, in reading this literature you referred to, or read, "imperialist wars" on several occasions? Have you ever heard the defendant say anything about "imperialist wars"?

A. I did.

Q. When?

A. He referred to that subject last year at one of the preliminary hearings in connection with this prosecution.

Q. What did he say?

[fol. 615] The Court: Where was the hearing and when was it?

A. The hearing was in this Court house, and occurred on September 1st, the day after he was arrested—a preliminary hearing. Do you want me to relate the instance?

The Court: September 1st, 1950?

The Witness: September 1st, 1950.

Mr. Lewis:

Q. Will you tell us what he said?

Mr. Nelson: Your Honor, is there a record of that. I assume that is a matter in this Court.

The Court: A record is not necessary if the witness was present and hearing any remarks made by a defendant, he is privileged to give them.

Mr. Nelson: The jury would want to know what is on the record. I don't want this man's interpretation of what I said a year ago.

[fol. 616] The Court: You may bring the record in, or subpoena them, or tell me about them and I will have them produced from the files at the proper time. If there are any records we will see that they are here for you. Proceed.

A. Steve Nelson said, at that hearing, "The Korean war is an imperialist war."

The Court: Mr. District Attorney, I wish to have you take under consideration this suggestion: Since this is cumulative of the matter of intent and motive, and so forth, and we limit the reading of excerpts from, let us say, ten of your exhibits and then offer any others without reading excerpts therefrom. You may, however, refer to them in your arguments, since they will be in evidence and the defendant will have the full right to refer to any of them, or cross-examine on any of them in his cross-examination of the witness.

Mr. Lewis: You mean ten different documents?

The Court: Not in excess of ten, yes. I assume you have many more than that, from the appearance of the desk there.

[fol. 617] Mr. Lewis: I do not intend to read all of this.

The Court: I would say, limit yourself——

Mr. Lewis: I would say it would just be pretty close to ten, maybe two or three more over that, that's about all.

The Court: Well, eliminate the two or three that do not have the importance of the others, and limit it to ten, so that we will have some limit to this cumulation of evidence, which is what it amounts to, on the matter of motive and intention.

Mr. Lewis: I will do the best I can, without prejudicing our case.

The Court: I will not ask you to do anything that would prejudice your case, but I am asking you to cooperate to eliminate any unnecessary accumulation of evidence.

Mr. Lewis: I will do that. I have already gone through all this and set a lot of exhibits aside.

[fol. 618] The Court: Very well.

(Commonwealth's Exhibit No. 26 marked for identification.)

Mr. Lewis:

Q. We show you Commonwealth's Exhibit No. 26, and ask you if you ever seen that before?

A. Yes, I have.

Q. And what is that, if you know?

A. This is an outline guide for speakers, at club meetings, outdoor meetings, leaflet writers, and so forth. And material on the Korean situation prepared by the National Education Department, Communist Party of the United States, July 1, 1950.

Q. You say you saw it before?

A. Yes.

Q. Where did you see it?

A. On Steve Nelson's desk.

Q. When?

A. August 31st, 1950.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit 26, and would ask the witness to read excerpts therefrom.

The Court: Do you object, Mr. Nelson?

[fol. 619] Mr. Nelson: I suppose—or read the whole thing or not introduce it at all, not by this man's interpretation at any rate.

The Court: Objection overruled.

A. "Thus, American imperialism, in its drive for world domination—in its drive toward a new World War—has now entered the open military phase of its intervention in the affairs of nations and peoples, with the launching of a war of murder and plunder against the people of

Korea. It is its strategy of world expansion and domination, and not concern for Koreans 'democracy and independence' that determines the present far eastern policy of Wall Street and its lay partisans in Washington.' For American imperialism must crush the national liberation movements in all parts of the world as a prerequisite to unleashing World War III."

Page 11: "American imperialism, to unleash its aggressive predatory war against the Soviet Union and the peoples' democracy, must suppress the national liberation movements in the colonial world. It has arrogated to itself the right to intervene in every nation and colony in order to drown in blood the peoples' struggle for independence; to prop up the tottering imperialist colonial structure in order to protect Wall Street's vested interests threatened by the success of the national liberation movement and to substitute 'democratic' American made colonialism for the colonialism of the Imperial Japan, France, Britan, Holland and Belgium."

[fol. 620] Page 13: "In Korea the people have had the opportunity of witnessing the liberating role—not only in words but in deeds—of the Soviet troops and the Soviet occupation forces, as contrasted with the enslaying role of American troops and the American military authority. That is why as a united people they doggedly resist American military intervention."

(Commonwealth's Exhibit No. 27 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 27, and ask you what that is, if you know?

A. This is a bundle of documents, being duplicates of the ones from which I just read.

Q. Which was Exhibit No. 26?

A. That is correct.

Q. Do you know how many? Will you count those so we will have it in the record?

A. There are 20 copies—found in the Communist headquarters.

Mr. Lewis: Commonwealth's Exhibit No. 27 consists of 27 copies, and they are duplicates of Exhibit No. 26.

The Witness: I said 20 copies.

[fol. 621] Mr. Lewis: 20 copies. We offer in evidence Exhibit No. 27.

The Court: The same objection of the defendant is noted, and that will be received.

(Commonwealth's Exhibit No. 27 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 28, and ask you what that is, if you know?

A. Yes.

The Court: The 20 copies were Exhibit 27, were they?

Mr. Lewis: Yes, Your Honor.

A. "Plan of Work, National Committee of the Communist Party of the United States."

Mr. Lewis:

Q. Did ever see that exhibit before?

A. I did.

Q. And when did you see it?

A. I saw it on August 31st.

Q. Where?

A. In Steve Nelson's desk.

[fol. 622] Mr. Nelson: I renew my request, your Honor, that if it is going to be quoted at all, it ought to be read as a whole.

The Court: Your request is noted, and overruled.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 28, and ask the witness to read excerpts to the jury.

A. On page 1: "The aggressive armed attack against the people of Korea, and United States imperialist intervention in the whole of Asia, clearly shows that American imperialism has now entered the open military phase of its preparations to unleash World War III, threatening to embroil the whole world in a new world holocaust."

Mr. Nelson: Let the record show that that document there urges that people to sign a petition addressed to the United States Congress, urging the Congressmen to hold Truman's war policies.

The Court: You may direct the jury's attention to that, or the witness's attention to it on cross-examination.

[fol. 623] (Commonwealth's Exhibit No. 29 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 29, and ask you what that is, if you know?

A. It is a document entitled, "The Fight for Peace and the National Groups."

Q. Did you ever see that document before?

A. Yes, I did, on Steve Nelson's desk on August 31st, 1950, in the Communist headquarters in the Bakewell Building.

Mr. Nelson: I haven't the time to look it over carefully, your Honor, but it looks familiar to me. And I offer again the same request.

The Court: All right, your request——

Mr. Nelson: That it be read as a whole, or be given to the jurors to examine at their leisure, and not be given to them in these dosages here by this prejudicial witness.

The Court: The objection is overruled. The request is refused.

[fol. 624] Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 29, and ask the witness to read excerpts therefrom.

A. Page 5: "Another very harmful idea, which especially among the people of the national groups, prevents the very elementary human desire to live, from leading to an organized peoples' struggle for peace, is the 'leftist' idea that 'we should not fight against war as war will mean the end of capitalism on a world scale.' Its most tricky expression is to be found in the slogan 'Let the capitalists start the war, the people will end it in their own way.' Of course, if an imperialist, anti-Soviet and anti-working class war should be started by the servants of Wall Street, it will become a

sacred duty of the workers and peoples in the capitalist countries to put an end to it in a revolutionary way, under the leadership of the Communists."

Mr. Nelson: Have you got any extra copies of that?

Mr. Lewis: Not of this one.

Mr. Nelson: You see, the position I will be in, your Honor.

The Court: We will give you an opportunity.

[fol. 625] Mr. Nelson: The man doesn't give me a copy. I don't have this stuff at all, because it is in the warehouse. And I will be expected, even as a layman, to go ahead and try to examine these things and cross-examine this man, which will be impossible.

Mr. Cercone: He was supplied copies of all of them, your Honor.

Mr. Lewis: For the purpose of the record.

The Court: We will afford him any opportunity of examining them that the situation may require.

Mr. Nelson: It is necessary to prepare for cross-examination.

Mr. Lewis: The defendant was given a copy of everything that we have.

Mr. Nelson: That, your Honor, is now in the hands of the lawyers.

The Court: We will discuss that at the proper time, gentlemen, not now. I will rule on the motion at the proper time. Proceed.

[fol. 626] (Commonwealth's Exhibit No. 30 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 30, and ask you what that is, if you know?

A. That is a document entitled, "Heroic Struggle of the People of South Korea for Unity and Independence of the Country".

Q. Did you ever see that document before?

A. I did. I saw it on Steve's Nelson's desk on August 31st, 1950, in the Communist headquarters.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 30. We have furnished Mr. Nelson with a copy of that.

The Court: His objection will be noted, a similar objection, and overruled.

Mr. Nelson: I make a similar request.

Mr. Lewis: We will ask the witness to read excerpts the effect.

Mr. Nelson: Let the record show that this statement, or this folder here that I have, or mimeographed piece of material, was written before the Korean war.

[fol. 627] The Court: Give the date of the pamphlet if it is shown on the pamphlet.

Mr. Nelson: It shows how the people want to unite the Country and how the——

The Court: You may develop that on cross-examination if the excerpts do not.

A. On page 5: "The rejection of the Soviet proposal by the United States Government completely exposed the aggressive designs of the American imperialists who wish to continue the occupation of South Korea, with the view to converting it into a United States colony and military base."

Mr. Nelson: Now you can see, your Honor, he started in the middle of a sentence and it does not convey a clear idea.

The Court: You have a copy of it, and you may develop anything else in it on cross-examination.

(Commonwealth's Exhibit No. 31 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 31, and ask you what that is, if you know?

[fol. 628] A. This is a bundle of documents, being duplicates of the one I just read from, which you introduced in evidence.

Q. Did you ever see that bundle of documents before?

A. Yes, I found them in the Communist headquarters August 31st.

Q. Will you count those so that we will have in the record as to how many copies this bundle contains?

A. 36 copies.

Mr. Lewis: Commonwealth's Exhibit No. 31 consists of 38 copies, which are duplicates to Exhibit No. 30 which has already been offered in evidence.

(Commonwealth's Exhibit No. 32 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 32, and ask you if you ever saw that before?

A. I did.

Q. And what is that?

A. It is a pamphlet entitled, "Some Ideological Questions on the Struggle for Peace. Material for classes and study groups, for speakers, instructors and active workers in the fight for peace"—issued by the National Education Department of the Communist Party in New York.

Q. Where did you see that exhibit before?

[fol. 629] A. On Steve Nelson's desk on August 31st, 1950.

Mr. Nelson: Do you have any copies of that?

Mr. Lewis: No, that is the only one I have.

The Court: The same objection and request refused and overruled.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 32, and ask the witness to read excerpts therefrom.

A. On page 3: "The material has been prepared to meet the needs of speakers, reporters, teachers and active workers in the fight for peace. It will also be found useful for study classes and as subject matter for club discussion of the individual topics."

On page 5: "Is American foreign policy imperialist? 1. It has always been a feature of American capitalism in its drive for expansion to conceal its aggressive predatory aims and hypocritically and deceitfully to make war in the name of humanitarianism, civilization, democracy and peace."

On page 7: "Thus we see that American imperialism has always practiced deceit and hypocrisy to conceal its predatory aims."

The next excerpt is: "The United States is not only an [fol. 630] imperialist country. It is the foremost imperialist country in the world, the center of world reaction, pursuing aggressive aims of world domination. It is seeking, like Hitler imperialism, to build a world empire."

On page 13: "The claims that American imperialism does not enslave but frees colonial peoples, as illustrated by the granting of 'independence' to the Philippines, is a fraud. The Philippine Islands remain fully dominated, politically and economically, by Wall Street."

"The policy of American imperialism toward the Philippines expresses the new forms of imperialist domination in the present period. The United States granted a sham independence to the Philippines, while actually retaining control in the following ways:

"a. It has a complete stranglehold on the economic life of the Islands."

Page 14: "Thus the facts show that the United States is an imperialist country. It is, moreover, the chief imperialist power in the world today. It has become the major oppressor of the peoples of the world—the gendarme that seeks to crush the liberation movements of the colonial, semi-colonial and dependent countries. It dominates over and oppresses the defeated countries, Japan, Italy and Western Germany and it is striving to enslave other capitalist countries, such as France, and so forth."

[fol. 631] On page 17: "As a result of the basic changes brought about by the war, a new alignment of political forces has arisen on a world scale. Two major camps have been formed—the imperialist and anti-democratic camps and the anti-imperialist and democratic camps. The mighty anti-imperialist camp of peace, democracy and socialism, headed by the Soviet Union, stands as a powerful barrier in the path of United States imperialism's drive to dominate the world."

(Commonwealth's Exhibit No. 33 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 33, and ask you if you know what that is?

A. Yes, that is a document entitled, "Proposed Budgets for Activities, 1947."

Q. Did you ever see that before?

A. I did. I saw it in the Communist headquarters in the Bakewell Building on August 31st, 1950.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 33, which is entitled, "Proposed Budget for Activities, 1947."

The Court: The same request——

Mr. Nelson: Let the record show that the document is [fol. 632] signed by another man, not by myself—or show that even Musmanno doesn't say that I wrote it. And I don't see why it is being brought in. What has it got to do with me?

The Court: Well, tell us, before your offer is received, where did you find it and for what it purports to be a budget.

Mr. Nelson: He found everything on my desk—everything was on the desk like this. That's what he's talking about.

The Court: Ask the witness to tell us that.

The Witness: I did not say I found it on your desk, incidentally.

Mr. Nelson: That is what you said all morning.

The Court:

Q. Where did you find it?

A. I found it in the filing cabinet.

Mr. Lewis:

Q. In the Communist headquarters?

A. In the Communist headquarters, in the Bakewell Building.

Q. On August 31st?

[fol. 633] A. That is right.

Mr. Lewis: This is being offered to show the activities of the Communist Party in Western Pennsylvania.

Mr. Nelson: Was it in some kind of a hidden safe, somewhere where nobody else could see it?

The Witness: Am I to reply to questions put to me by the defendant?

The Court: I am directing the District Attorney to get you to further elaborate on where you found it and under what circumstances it was found.

Mr. Nelson: Was the document in some kind of a hidden place, under the carpet or something?

The Court: No—we will ask the witness to answer the questions you are suggesting.

Mr. Lewis:

Q. Was it in the safe?

A. No, it was not in the safe.

Q. You say it was in a bookcase—or where did you say?

A. In a filing cabinet.

[fol. 634] Q. In a filing cabinet?

A. That is right.

The Court:

Q. Was it locked or unlocked?

A. It was unlocked.

Q. Unlocked—whose room was it in, sir? Was it in the receptionist's room or in Mr. Nelson's room?

A. In the receptionist's room.

The Court: What is the purpose of the offer?

Mr. Lewis: The purpose of the offer is to show the activities of the Communist Party here in Western Pennsylvania.

Mr. Nelson: There, your Honor, I thought the Communist Party wasn't going to be on trial.

The Court: Does that throw any light on the intention or motive on the part of the defendant?

Mr. Lewis: It shows how the Party operates, and that is part of the indictment.

[fol. 635] Mr. Nelson: Well, is the Party on trial, Mr. Lewis?

The Court: No, it is not.

Mr. Lewis: Let me finish, please.

The Court: Proceed.

Mr. Lewis: This defendant is accused of belonging to a subversive——

The Court: Just a minute. "yes" or "no", does it lead to the motive and intention of this defendant? Is it offered for that purpose, of showing his motive or intention?

Mr. Lewis: Not by itself, but it will be connected up.

The Court: All right, for that limited purpose, we will overrule the objection and permit it to be offered.

Mr. Lewis:

Q. We will show you Commonwealth's Exhibit No. 34, and ask you what that is, if you know?

A. "Financial Statement, January 1, 1948 through December 31, 1948."

Q. And did you ever see that exhibit before?

A. I did. I saw it in the filing cabinet in the reception-[fol. 636] ist's office in the Communist headquarters in the Bakewell Building, 417 Grant Street, on August 31, 1950.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 34.

The Court: On the same basis, your offer will be received.

Mr. Lewis: Yes, on the same basis.

The Court: Objection to it is overruled.

Mr. Nelson: What? 34 is the same thing——

The Court: The statement for 1948.

Mr. Lewis: January 1, 1948 through December 31, 1948.

(Commonwealth's Exhibit No. 35 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 35, and ask you what that is, if you know?

A. That is a financial statement from January 1, 1948 through October 31, 1948, found in the same place as the other two previous exhibits.

[fol. 637] Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 35.

The Court: The same objection is noted and overruled. I misunderstood, is that financial statement for one month?

Mr. Lewis: No. 34 is the—no, it is a statement from January 1st, 1948 through December 31, 1948.

The Court: The second one is for one month of 1948?

Mr. Lewis: No. Exhibit No. 35 is January 1st, 1948 through October 31, 1948.

(Commonwealth's Exhibit No. 36 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 36, and ask you what that is, if you know?

A. That is a financial report, January through June, 1949, found in the same place, at the same time.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 36.

[fol. 638] The Court: The same objection is noted and overruled.

Mr. Nelson: What is the purpose of showing this, your Honor? Is there any items that indicate that I got money from the Communist Party?

The Court: I do not know. He said he is going to follow it up. We are permitting it on the basis of his statement that he is going to follow it up, concerning some activity as to motive and intent on your part, as I understand it.

(Commonwealth's Exhibit No. 37 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 37, and ask you if you know what that is?

A. Yes, a document entitled, "Proposed Budget for Activities, 1946, Communist Party, Western Pennsylvania District", found in the same place, same time.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 37.

[fol. 639] The Court: The same objection is noted and overruled.

Mr. Lewis: And we would like to read into evidence one paragraph of this exhibit which refers to the activities and the aim and policy of the Communist Party.

The Court: The objection to it will be noted and overruled.

Mr. Nelson: It is a reference to the Communist Party, and not to what I have done.

Mr. Lewis: We are going to follow it up by showing the Communist Party is a sedition organization.

Mr. Nelson: Well then, the Communist Party is on trial, Mr. Lewis. Is that right, your Honor?

The Court: No, sir.

Mr. Nelson: That's what he says.

The Court: It will not go to the jury unless you are [fol. 640] connected with it. If it is not, of course, you are not affected.

Mr. Nelson: Unless I am connected with it?

The Court: That is right. The Communist Party is not on trial, and membership in it is not sufficient, and I told the jury in your presence, many, many times. Let's pursue it with further evidence to indicate that you did something in violation of the Sedition Act of the Commonwealth of Pennsylvania, your association with the Party, of course, is evidence which may be considered in determining your intent.

Mr. Nelson: That is not what you said to the jury when the jury was selected, your Honor.

The Court: Yes, it was.

Mr. Nelson: Your Honor, I object to your remarks. They are not the same as when the jury was being selected.

The Court: We will note your objection. Just for a matter of record——

[fol. 641] Mr. Nelson: Mr. Cercone didn't say that either.

The Court: Just as a matter of record, every question, as I recall, put to the prospective jurors was that: whether membership in the Party was sufficient to sustain a conviction. I repeatedly said and told the jury if was not.

Mr. Nelson: You told them the Communist Party was not on trial.

The Court: It is not on trial, that is right.

Mr. Nelson: Why is this Communist document being read now? It is not my document.

The Court: It was supposedly in your possession, that is the reason.

You may read the paragraph into the record. The record will show the objections of the defendant and his reasons therefor, and the action of the Court overruling them.

Mr. Lewis: I am reading from the proposed budget for ac-
[fol. 642] tivities, 1946, Communist Party of Western Pennsylvania, under the heading "Failure Means Crisis."

"One final word on the budget: We must decide what must be done, and then we must guarantee that it will be done. If we make plans and decisions and then don't provide the means for carrying them out, we will have a crisis in the Party and will be unable to carry out decisions decided on by the membership. Past experience and especially that of the last year proves this. Here is what happened last year in terms of what was planned and what happened. Estimated income for last budget: Dues estimate, $2,400.00; literature, $480.00; fund drive, $8,000.00; individual contributions, $4,300.00; affairs meeting, $2,500.00; National Committee, $2,640.00. Estimate total, $21,620.00. Actual total, $14,229.86. Deficit, $7,591.14.

"What was actually raised: Actual income, $1,767.69. Actual income for literature, $160.00; fund drive, $3,640.00; individual contributions, $1,037.00; affairs meet-
[fol. 643] ing, $1,300.00; National Committee, $3,640.00. Actual total, $11,544.69. Total, plus $2,665.17, including income from other sources, total $14,229.86.

"What was done in view of the deficit, and how did it affect the work? Here are the facts: We planned to spend $1,500.00 on radio, and actually spent $190.00; we planned to spend $1,200.00 on propaganda, and actually spent $291.59; the district had to sell the two cars, one office was closed, two people were dropped from the payroll. In a word, the deficit resulted in a complete paralysis of the Party. Certainly we cannot and will not allow this to happen again. A year ago we could be indifferent because a revision of policies denied the indispensable role of the Communists. We are correcting that mistake today because we recognize that the existence of a strong, active, fighting Communist Party is a necessary precondition for insuring unity of labor and all man forces in a struggle against American imperialism?"

[fol. 644] Mr. Nelson: Let the record show, your Honor, this document goes way beyond the date of the indictment. It is a 1946 document, when I was not even in Pittsburgh at the time. And furthermore, I don't know what the dollars and cents have to do with me.

The Court: Well, your objection concerning your absence from the City here is an important objection. If you were not involved in this headquarters, had nothing to do with it at that time, of course, it is properly objectionable. And if you wish, after the completion of the other evidence, if there is no evidence to connect you with it, I will be glad to sustain a motion to strike it from the record and withhold it from consideration by the jury.

I might consider all of these exhibits, Mr. Lewis, if there is anything that goes beyond the two-year period prior to the indictment, and you have not any evidence to connect this defendant with them other than their presence in an office, possibly they are objectionable.

[fol. 645] Mr. Lewis: Well, the only reason that the last one was introduced in evidence, there is a count in the indictment which says that anybody that is a member of, or an organized in an organization, that advocates the overthrow of the government by force and violence, is guilty of a crime. Now we are going to show that this organization is a seditious organization and does advocate the overthrow of the government by force and violence. And, therefore, any evidence that we have, even though it develops that it would go prior to the indictment, goes to the intent and knowledge of the members and organizers in the Party.

The Court: Well, I have not ruled it out at this time; we will consider it and determine whether it should be ruled out later. I am merely directing your attention to the possibility.

Mr. Nelson: Your Honor, I don't know what to do about these things legally. Consequently——

The Court: The way to protect your record, Mr. Nelson, [fol. 646] is to enter objections. I am trying to note your objections wherever it is adverse to you, any ruling, so that you will be protected.

Mr. Nelson: Yes, but my opinion is, your Honor, that human actions are not like a clock where you can stop them, wind them up and stop them. The jurors here hear things

now, and two weeks or two months from now they will hear something else—what effect is it going to have on them? You tell them to forget that Mr. Lewis said such and such today, but that is just so much mumble-jumble. I can't see where that makes any sense.

The Court: Possibly there is some merit in what you say, but that is all we can do under the circumstances.

(Commonwealth's Exhibits 38, 39 and 40 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 38, and ask you if you know what that is?

A. This is a document entitled: "Study Course on the [fol. 647] Communist Party, the working class and Industrial Concentration, Outline Guide for Schools, Classes and Study Groups", issued by the National Education Department of the Communist Party of New York.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 38.

The Court: The same objection will be noted for the defendant, and overruled.

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 39, and ask you what that is, if you know?

A. This is a document entitled, "Outline on the Fundamentals of Marxism, for Class Study or Self-Study", issued by the National Education Commission of the Communist Party in New York.

Q. Did you ever see that book before?

A. Yes. That and the preceding one I obtained in the Communist headquarters on August 31st, 1950.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 39.

The Court: The same objection noted for the defendant, and overruled.

Mr. Lewis:

"Q. I show you Commonwealth's Exhibit No. 40, and ask [fol. 648] you what that is, if you know?

A. This is a document entitled, "World Significance of the Defense in China, Discussion for Outline and Material for Classes", issued by the National Education Department of the Communist Party in New York.

Q. Did you ever see that exhibit before?

A. Yes, I found that with the preceding two exhibits in the Communist Party headquarters in the Bakewell Building, on August 31st, 1950.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 40.

The Court: The same objection noted for the defendant, and overruled.

Mr. Lewis: I want to get this organized a little bit better, your Honor, and I think we will save time in the long run.

The Court: We will adjourn now until 1:00 o'clock, instead of waiting until 12:00 and adjourning until 1:15. Court adjourned until 1:00 o'clock.

(Court adjourns at 11:50 o'clock A. M. until 1:00 P. M. of the same day.)

[fol. 649] TRANSCRIPT OF OFFICIAL NOTES OF TESTIMONY—DECEMBER 20, AND DECEMBER 21, 1951

Thursday, December 20, 1951
Afternoon session

The Court: In connection with this affidavit, I have read it. I have considered if as a renewal of your motion to postpone and signed an order permitting it to be filed, refusing, of course, the motion as I did yesterday.

Mr. Nelson: I would like to take up a matter pending your convenience at Side Bar.

The Court: You may at the close of the session today. I will be glad to take up any matter with you that you wish.

(Judge Musmanno resumes the witness stand)

Direct examination (continued)

By Mr. Lewis:

[fol. 650] (Commonwealth's Exhibit No. 41, marked for identification)

Q. I show you Commonwealth's Exhibit No. 41 and ask you what that is?

A. It is a book entitled "United Front Against Fascism" by George Dimitroff.

Q. Do you know who George Dimitroff was?

A. He was the secretary of the communist international.

Q. Did you see that exhibit before?

A. Yes. I got this from James Dolsen on July 19, 1950 in the communist headquarters.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 41.

Q. And ask the witness to read excerpts.

The Court: Same objection is entered and objection overruled.

A. On page 120: "The eyes of millions of workers, peasants, small townspeople, office workers and intellectuals, of colonial peoples and oppressed nationalities are turned toward Moscow, the great capital of the first, but not last state of the international proletariat."

[fol. 651] Mr. Nelson: Isn't the prosecution even going to show at least the courtesy of showing what they are reading?

The Court: Yes, I think they are.

Mr. Nelson: I haven't seen the last document or a number of them.

(Commonwealth's Exhibit No. 42, marked for identification, and shown to defendant)

Mr. Nelson: Let the record show this pamphlet was printed in 1935 and therefore must have been in circulation in this country for at least eighteen years—fifteen years—before these people decided to make it a seditious piece of material.

The Court: If it shows it was published in 1935 that of course will be before the jury.

Q. I show you Commonwealth's Exhibit No. 42, and ask [fol. 652] you what that is, if you know?

A. It is a magazine called "Political Affairs" which refers to the Fourteenth National Convention of the Communist Party of the United States of America, published September, 1948. I obtained it at the communist headquarters from James Dolsen on July 19, 1950.

Mr. Nelson: Again, Your Honor, if the jurors are going to pass judgment on this they ought to see the pamphlet unmarked.

The Court: We will endeavor to comply with your request and supply unmarked sections as far as that is possible.

Mr. Nelson: Showing the proceedings here legitimate and above-board and all the proceedings were printed. If there was any crime committed would they be printed in this manner.

The Court: You are not being charged with any crime relating to that.

Mr. Nelson: Why is it being read then?

[fol. 653] Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 42.

Q. And ask the witness to read excerpts therefrom.

A. From page 833: "It has been wisely said that the Communist Party of the United States is one of the few Communist Parties that will be called upon to play a decisive role in the development of the world revolutionary movement. This is profoundly true." Last column: "But what is even more important, the Communist parties of other countries understand the vital role that our Party has to play."

Q. Do you know who publishes that magazine?

A. It is published by the New Century Publishers in New York under the guidance of the Communist Party of the United States.

The Court: What issue is that?

Mr. Lewis: This is the issue of September, 1948.

(Commonwealth's Exhibit No. 43, marked for identification)

Q. I show you Commonwealth's Exhibit No. 43, and ask you if you know what that is?

A. It is a magazine called "Masses and Mainstream" [fol. 654] also published through the guidance of the Communist Party of the United States which I obtained in the communist headquarters in Pittsburgh on August 31, 1950. The date of the magazine is August, 1950.

Mr. Nelson: I renew my request, Your Honor.

The Court: Your request will be noted, refused, the objection to the offer is also recorded and refused and objection overruled.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 43.

Q. And ask the witness to read excerpts therefrom.

A. On page 20, the sentence: "What does the United States hope to gain by this venture? First of all—Korea, and no nonsense about a Thirty-Eighth Parrallel either." Then on page thirteen there is a cartoon.

Mr. Lewis: I would like permission to show this cartoon to the jury, if the Court, please.

[fol. 655] The Court: The whole book is in evidence. You may.

(Exhibit shown to defendant)

Mr. Lewis: I think it will be better to pass it around.

The Court: Give it to the Foreman and let her pass it.

(Commonwealth's Exhibit No. 44, marked for identification)

Q. I show you Commonwealth's Exhibit No. 44, and ask you if you know what that is?

A. This is a booklet entitled "Lenin" written by Joseph Stalin.

Q. Did you ever see this book before?

A. Yes. I obtained this book in the communist headquarters in Pittsburgh, Bakewell Building on August 31, 1950.

(Exhibit shown to defendant)

Mr. Nelson: Again the pamphlet shows it was printed in 1934; must have been in a circulation a long time.

[fol. 656] The Court: What is the date on it? Date of publishing.

Mr. Nelson: And here we are, going back into ancient history.

Mr. Lewis: Copyrighted in 1934. It doesn't say when it was printed. We offer in evidence Commonwealth's Exhibit No. 44.

Q. And ask the witness to read excerpts therefrom.

Mr. Nelson: I would like to look at the other one a moment after the jurors are through.

The Court: All right.

Mr. Nelson: Here since the prosecution introduced the subject of Korea and this cartoon—what they showed the jurors was meant to prejudice them against my opposition in going into Korea, there is an article here dealing with [fol. 657] that subject. I would like to have that article read to the jury—by Mr. Aptheker.

The Court: We will direct the jury's attention to it, Mr. Nelson.

Mr. Nelson: Why doesn't he do it now instead of showing the whole prejudicial thing without any meat to it. How can they make any kind of observation to it or come to any conclusion merely on the basis of a cartoon. I have seen cartoons in the Pittsburgh Press where Mayor Lawrence is made to look like an idiot. Does that mean anything?

The Court: You may have the same privilege of directing the jury's attention to anything that you want to in that article that may offset or explain the article in any way.

Mr. Lewis: I offer in evidence Commonwealth's Exhibit No. 44.

[fol. 658] The Court: Same request, same objection; refused and objection overruled.

A. On page 15, I read: "We communists are people of a special mould. We are made of special material. We are those who comprise the army of the great proletarian strategist, the army of Comrade Lenin. There is nothing

higher than the honour to belong to this army. There is nothing higher than the title of member of the Party founded and led by Comrade Lenin."

Mr. Nelson: Let it be noted that was made by Stalin in 1924 at a funeral of Lenin. What has that got to do with me if somebody else made a funeral oration? I haven't heard the Judge's speech yet today. What he said about the death of our Treasurer over here, County Treasurer: I don't know what he said. Can I be held responsible for what you said at that place?

The Court: The jury will be fully instructed as to the effect of this. It already has been and will be further in the Court's Charge.

[fol. 659] (Commonwealth's Exhibit No. 45, marked for identification)

The Court: These excerpts to be read, are they about expired?

Mr. Lewis: I would say as I informed you this morning, we have done quite a bit of work eliminating a lot of books we used in the other trial. I told you we would finish this witness' testimony this afternoon, everything we have, and present our case without prejudicing our case.

The Court: I am trying to avoid something that may be unnecessary. If it is all accumulative it seems to be that the offer of most of these things would accomplish the result with the further privilege of yourself or Mr. Greene referring to them in your arguments to the jury.

Mr. Lewis: It really isn't accumulative. It touches different phases. Some of them hold the government up [fol. 660] to ridicule and contempt.

The Court: It all relates to motive, does it not, on the part

Mr. Nelson: You mean people have no right to criticize government policy?

The Court: We all do to a certain extent.

Mr. Nelson: We have that right, Your Honor. I don't have to go down with Truman's war program if I don't want to. I don't have to follow that policy.

Mr. Lewis: Please don't talk to me, Mr. Nelson.

The Court: Pardon me until I complete my remarks to counsel here. Now, if it is accumulative I ask you to re-

spect my wishes on the matter concerning limiting the matter of accumulation let's say beyond ten or twelve as [fol. 661] you suggested this morning. If there is another purpose concerning it, I will be glad to hear you on that other purpose and permit the reading of additional matter.

Mr. Lewis: It really isn't accumulative for this reason. There are several phases to this thing as set forth in the indictment. One is that the United States has been held up to ridicule and contempt. Now that is one phase. And some of these books, some of these pamphlets prove that. There is another phase of this thing to the effect that these men are organizers in an organization that advocates the overthrow of the government by force and violence. Other of these pamphlets refer to that. So it really isn't accumulative all on one point. There are several phases. We don't have too many other books, and I would say to the Court that within I would say about 2 o'clock we would be finished with reading these excerpts.

[fol. 662] The Court: Very well, that satisfies me. Proceed.

(Commonwealth Exhibit No. 46, marked for identification.)

Q. I show you Commonwealth Exhibit 46 and ask you what that is?

A. This is a pamphlet entitled "Turning point in China" printed by the New Century Publishers in 1948, written by Mao Tse Tung.

Q. Did you ever see that pamphlet before?

A. I did. I obtained it in the Communist Headquarters in the Bakewell Building on August 31st, 1950.

(Exhibit shown to defendant)

Mr. Nelson: I renew my request.

The Court: Renewed motion is overruled.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 46.

Q. And ask the witness to read excerpts therefrom.

A. On page 3: "The Chinese People's Liberation Army in this land of China has reversed the counterrevolutionary [fol. 663] wheels of American imperialism and of Chiang Kai Shek's gang of brigands onto the road to ruin. They

have pushed forward *forward* their own revolutionary wheels along the road to victory."

Mr. Nelson: What is the meaning of that? You mean the Chinese people have no right to kick out Chiang Kai Shek if they don't want him? Am I responsible for the fact that they do it or if I sympathize with them because they did it?

The Court: The jury will be instructed as to your right of free speech, freedom of the Press fully, Mr. Nelson.

Mr. Nelson: That is exactly what is on trial, Your Honor, my right to think and speak and say what I please. That is what is on trial here.

The Court: The jury will be informed about that.

Q. I show you Commonwealth Exhibit No. 45 and ask you what that is?

[fol. 664] A. This is a booklet entitled "Socialism and the Individual" by M. D. Kammari published in Moscow in 1950 by the Foreign Languages Publishing House.

(Exhibit shown to defendant)

Mr. Lewis: We offer in evidence Commonwealth Exhibit 45.

Q. And would ask the witness to read excerpts to the jury.

Mr. Nelson: I don't know where that pamphlet was picked up. I never seen it.

The Court: Have the witness identify it.

Q. Did you ever see that before?

A. Yes. I obtained it in the Headquarters of the Communist Party of Western Pennsylvania in the Bakewell Building, suite 426, on August 31, 1956.

Mr. Lewis: We offer in evidence Commonwealth Exhibit 45.

[fol. 665] The Court: Same objection as entered and overruled.

A. I read from page 10. "Communism does away with bourgeois private property, the necessary precondition for

whose existence is the lack of property on the part of the vast majority of society. The bourgeois, however, argues that in destroying bourgeois private property Communism destroys individuality. 'You must, therefore, confess,' reply Marx and Engels, 'that by "individual" you mean no other person than the bourgeois, than the middle-class owner of property. This person must, indeed, be swept out of the way, and made impossible.' "

Mr. Nelson: Let it be noted that the man quoted referred to Carl Marx who died in 1873.

Mr. Cercone: Let it be noted this was published in 1950, Your Honor.

The Court: Both are noted. It is all in the record. The entire book is in the record.

(Commonwealth Exhibit No. 47, marked for identifica-
[fol. 666] tion.)

Q. I show you Commonwealth Exhibit No. 47 and ask you if you know what that is?

A. This is a pamphlet entitled "Notes on the National Question."

Q. Did you ever see that pamphlet before?

A. I did.

Q. Where did you see it?

A. I saw this in the Communist Headquarters on August 31, 1950 in the Bakewell Building.

(Exhibit shown to defendant.)

Mr. Nelson: It was printed originally in 1944, September 1944.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 47.

Q. And ask the witness to read excerpts to the jury.

The Court: Same objection entered and overruled.

A. On the frontis-piece appears in handwriting the name William Albertson who was a former secretary of the Com-
[fol. 667] munist Party of Western Pennsylvania. On page

Mr. Nelson: Your Honor, how does he know whose handwriting that is? Is he going to become a handwriting expert?

The Court: He didn't say handwriting. He said the name —Did you say handwriting or name?

The Witness: I said the name William Albertson appears in handwriting.

A. (continued) On page 22 I read: "The revolutionary interests of the working class must in all circumstances take precedence over all other interests. In no circumstances are the revolutionary workers defenders of the nation as such, for their ideal is not the nation but socialism." On page 23. "But for the revolutionary workers the interests of socialism always take precedence over all national interests." On page 38: "We are no nationalists, and shall never be nationalists. We are internationalists. For *us*, the nation is not the highest. For us the highest is socialism, communism."

[fol. 668] (Commonwealth Exhibit No. 48, marked for identification.)

Q. I show you Commonwealth Exhibit No. 48 and ask you what that is, if you know?

A. This is a pamphlet entitled "On the Struggle Against Revisionism" published by the Communist Party of the United States in New York in January, 1946.

(Exhibit shown to defendant.)

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 48.

Q. And ask the witness to read therefrom.

By the Court:

Q. Where did you secure that?

A. I obtained this at the Headquarters of the Communist Party In Pittsburgh in the Bakewell Building on August 31, 1950.

The Court: Note an objection and it is overruled.

A. On page 2 there appears the following: "National Officers of the Communist Party, U.S.A. National Secre-

[fol. 669] tariat: William Z. Foster, Eugene Dennis, John Williamson, Robert Thompson. National Board:" in addition to the above—"Benjamin J. Davis, Jr., Elizabeth Gurley Flynn, Jack Stachel, Louis Weinstock, Josh Lawrence, Irving Potash, Steve Nelson." On page 4, I read the following: "The defeat of the plans of American imperialism for world domination, its reactionary intervention in China and in the European democracies, its ruinous course of weakening Big Three unity, which as you know is the sole guarantee of world peace, requires the maximum mobilization of all our forces and energies." Then at the bottom of the page appear the words "Comradely yours, William Z. Foster."

By Mr. Nelson:

Q. What does he mean by that quotation? Is it in the indictment?

The Court: It is not in the indictment. As I understand, none of these volumes—the indictment is not based on any of these.

Mr. Lewis: That is correct, Your Honor.

The Court: Direct my attention to the fact that any of [fol. 670] them support directly the indictment.

(Commonwealth Exhibit No. 49, marked for identification.)

Q. I show you Commonwealth Exhibit No. 49, and ask you if you know what that is?

A. This is a bundle of leaflets which are duplicates of the one I just read from. And I obtained them in the—rather I didn't obtain them, I saw them in the Communist Headquarters on August 31, 1950.

Q. Count those, please?

A. 28 copies.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 49 which is a bundle of copies which are duplicates of Commonwealth Exhibit No. 48.

The Court: Same objection entered and overruled.

(Commonwealth Exhibit No. 50, marked for identification.)

[fol. 671] Q. I show you Commonwealth Exhibit No. 50, and ask you what that is?

A. This is a publication entitled "Working Class Unity for Peace," published by the New Century Publishers in New York, 1950.

(Exhibit shown to defendant.)

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 50.

Q. And ask the witness to read excerpts therefrom. Did you testify where you saw that? Did you ever see that before?

A. I obtained it in the Communist Headquarters in the Bakewell Building on August 31, 1950.

The Court: Objection overruled, offer received.

A. (continued) On page 9, I read: "U.S. imperialism has become the center and mainstay of world reaction." At the bottom of the page "The policy of war preparations also found expression in the so-called Marshall Plan. The Information Meeting of the Communist Parties held in September 1947 revealed the real aims of the Marshall Plan as a plan for the economic and political enslavement of Europe by U.S. imperialism." On page 25, "The preparations for a new war are indissolubly linked with the enslavement of [fol. 672] the countries of Europe and of other continents by U.S. imperialism." On page 54: "'An internationalist is he,' says Comrade Stalin, 'who unreservedly, without any hesitation, and unconditionally, is ready to defend the U.S.S.R. because the U.S.S.R. constitutes the base of the world revolutionary movement, and to defend, to advance this revolutionary movement is impossible without defending the U.S.S.R. He who thinks in terms of defending the world revolutionary movement without the U.S.S.R., and against it, goes against revolution and inevitably finds his way into the camp of the enemies of revolution.' (J. V. Stalin, Selected Works, Volume 10, Page 51, Russian Edition).' How profoundly appropriate these words of our great leader sound today. The dialectics of the class struggles are unmerciless."

(Commonwealth Exhibit No. 51, marked for identification.)

Q. I show you Commonwealth Exhibit No. 51, and ask you what that is, if you know?

A. These are duplicates of the booklet I just read from.

Q. How many copies are in that bundle?

A. 11 copies, which I saw in the Communist Headquarters on August 31, 1950.

[fol. 673] Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 51 which are duplicates of Commonwealth Exhibit No. 50.

The Court: Same objection, overruled.

(Commonwealth Exhibit No. 52, marked for identification.)

Q. I show you Commonwealth Exhibit No. 52, and ask you what that is, if you know?

A. This is a pamphlet entitled, "On People's Democratic Rule" by Mao Tse-Tung, published by the New Century Publishers, July, 1950.

Q. Did you ever see that before?

A. I did. I obtained this in the Communist Headquarters on July 19, 1950, in Pittsburgh from James Dolsen.

Q. Do you know who Mao Tse-Tung is?

A. Yes, he is the present chairman of the Central Committee of the Communist Party of China and the head of the Red Armies of China.

(Exhibit shown to defendant.)

Mr. Nelson: Since there are copies available I think the [fol. 674] fairest thing would be to let the jury look at the pamphlet itself. This pamphlet deals with the revolutions in China, the way they kicked out Chiang Kai Shek and his cronies. And they have the same right to do that as George Washington had to chase out the British from here.

The Court: The jury may have the benefit of the whole thing and read it if they deem it important.

Mr. Nelson: Certainly they are not going to indict the four hundred million Chinese people for what the have done.

The Court: That is not the purpose.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 52.